

**IDAHO CODE**

**PERTAINING TO**

**EMERGENCY MEDICAL SERVICES**

**AND RELATED SYSTEMS**

**INCLUDES REVISIONS PASSED IN THE 2004 LEGISLATIVE SESSION**

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# EXCERPTS FROM IDAHO STATUTES

## TITLE 5 PROCEEDINGS IN CIVIL ACTIONS IN COURTS OF RECORD

5-330	IMMUNITY OF PERSONS GIVING FIRST AID.....	3
5-331	IMMUNITY OF VOLUNTEER AMBULANCE ATTENDANT.....	3
5-332	CONSENT OF TREATMENT.....	3
5.337	IMMUNITY FOR USE OF AUTOMATED EXTERNAL DEFIBRILLATOR.....	3

## TITLE 6 ACTIONS IN PARTICULAR CASES

6-2401	LIABILITY FOR EMERGENCY RESPONSES.....	3
--------	--	---

## TITLE 16 JUVENILE PROCEEDINGS

16-1619	REPORTING OF ABUSE, ABANDONMENT OR NEGLECT.....	4
16-2411	EMERGENCY MENTAL HEALTH RESPONSE AND EVALUATION – TEMPORARY DETENTION BY A PEACE OFFICER.....	5

## TITLE 18 CRIMES AND PUNISHMENTS

18-915	ASSAULT OR BATTERY UPON CERTAIN PERSONNEL – PUNISHMENT.....	5
18-6810	INTENTIONAL DESTRUCTION OF A TELECOMMUNICATION LINE OR TELECOMMUNICATION INSTRUMENT.....	6

## TITLE 31 COUNTIES AND COUNTY LAW

31-3901 - 3908	AUTHORITY TO ESTABLISH AMBULANCE SERVICE.....	6
31-3909	IMMUNITY OF AMBULANCE ATTENDANT.....	8
31-3910	CONSENT FOR EMERGENCY MEDICAL TREATMENT.....	8
31-4801 - 4818	EMERGENCY COMMUNICATIONS ACT.....	8

## TITLE 33 EDUCATION

33-4302A	PUBLIC SAFETY OFFICER DEPENDENT SCHOLARSHIPS.....	14
----------	---	----

## TITLE 39 HEALTH AND SAFETY

39-105 – 39-106	POWERS AND DUTIES OF THE DIRECTOR.....	15
39-609	CONTROL OF VENEREAL DISEASES.....	17
39-1390	REPORTS TO LAW ENFORCEMENT AGENCIES OF CERTAIN TYPES IN INJURIES.....	17
39-1392a	DEFINITIONS.....	17
39-1392b, 1392e	RECORDS CONFIDENTIAL AND PRIVILEGED.....	18
39-1393	NOTIFICATION OF PROFESSIONAL REVIEW ACTION.....	20
39-3406	ROUTINE REFERRAL & REQUIRED REQUEST – SEARCH & NOTIFICATION (IDAHO ANATOMICAL GIFT ACT).....	21
39-4301 –39-4303	CONSENT FOR TREATMENT.....	22
39-4303A	BLOOD TESTING.....	22
39-7105	LOCAL EMERGENCY RESPONSE AUTHORITIES – DESIGNATION.....	23
[39-8201] 39-8101 – [39-8204] 39-8104	IDAHO SAFE HAVEN ACT.....	23

## TITLE 46 MILITIA AND MILITARY AFFAIRS

46-1003 – 46-1018A	DISASTERS AND EMERGENCIES.....	24
--------------------	--------------------------------	----

## TITLE 49 MOTOR VEHICLES

49-123	DEFINITIONS – V.....	30
--------	----------------------	----

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49-306	APPLICATION FOR DRIVER’S LICENSE.....	33
49-452	EMS FEE.....	35
49-623	AUTHORIZED EMERGENCY VEHICLES.....	36
49-625	OPERATION OF VEHICLES APPROACHING EMERGENCY VEHICLES.....	36
49-910A	COLOR OF LAMPS ON CERTAIN VEHICLE CLASSES.....	36
49-920	ADDITIONAL LIGHTING EQUIPMENT.....	37

## **TITLE 54 PROFESSIONS, VOCATIONS, AND BUSINESSES**

54-420 – 54-421	STATE ATHLETIC COMMISSION – MEDICAL EMERGENCIES, EMEGENCY MEDICAL EQUIPMENT AND PERSONNEL.....	37
-----------------	---	----

## **TITLE 56 PUBLIC ASSISTANCE AND WELFARE**

56-1011 – 1017	DEPARTMENT OF HEALTH AND WELFARE - EMS.....	37
56-1018 – 56-1018B	EMS FUND.....	40
56-1020 – 56-1035	Comfort ONE/DNR.....	40
56-1036 – 56-1040	POISON CONTROL CENTER.....	43

## **TITLE 57 PUBLIC FUNDS IN GENERAL**

57-2001 – 57-2005	TRAUMA REGISTRY.....	43
-------------------	----------------------	----

## **TITLE 59 PUBLIC EMPLOYEES RETIREMENT SYSTEM**

59-1303	ADDITIONAL DEFINITIONS FOR POLICE OFFICER STATUS.....	44
---------	---	----

## **TITLE 63 REVENUE AND TAXATION**

63-3622O	EXEMPT PRIVATE AND PUBLIC ORGANIZATIONS.....	46
----------	--	----

## **TITLE 67 STATE GOVERNMENT AND STATE AFFAIRS**

[67-820] 67-818	FLAGS FLOWN AT HALF-STAFF – DEATH IN LINE OF DUTY.....	48
67-3008	RELEASE OF CRIMINAL HISTORY RECORD INFORMATION.....	48
67-8801 – 67-8805	LAW ENFORCEMENT AND FIREFIGHTING MEDAL OF HONOR.....	49

# IDAHO CODE RELATING TO EMERGENCY MEDICAL SERVICES BUREAU

## TITLE 5 PROCEEDINGS IN CIVIL ACTIONS IN COURTS OF RECORD

**5-330. IMMUNITY OF PERSONS GIVING FIRST AID FROM DAMAGE CLAIM.** That no action shall lie or be maintained for civil damages in any court of this state against any person or persons, or group of persons, who in good faith, being at, or stopping at the scene of an accident, offers and administers first aid or medical attention to any person or persons injured in such accident unless it can be shown that the person or persons offering or administering first aid, is guilty of gross negligence in the care or treatment of said injured person or persons or has treated them in a grossly negligent manner. The immunity described herein shall cease upon delivery of the injured person to either a generally recognized hospital for treatment of ill or injured persons, or upon assumption of treatment in the office or facility of any person undertaking to treat said injured person or persons, or upon delivery of said injured person or persons into custody of an ambulance attendant.

**5-331. IMMUNITY OF VOLUNTEER AMBULANCE ATTENDANT.** No action shall lie or be maintained for civil damages in any court of this state against any person or persons, or group of persons, including volunteer ambulance attendants, who offers and administers first aid or emergency medical attention as a part of his volunteer service as an ambulance attendant to any person or persons utilizing the volunteer services and facilities, unless it can be shown that the person or persons offering or administering first aid or emergency medical attention is guilty of gross negligence in the care or treatment offered or administered, or has treated them in a grossly negligent manner. The immunity described herein shall cease upon delivery of the injured or treated person to either a generally recognized hospital for treatment of ill or injured persons, or upon assumption of treatment in the office or facility of any person undertaking to treat said ill or injured person or persons.

**5-332. CONSENT FOR EMERGENCY MEDICAL TREATMENT.** The authorization or refusal of consent for emergency medical treatment under sections 5-330 or 5-331, Idaho Code, shall be governed by chapter 43, title 39, Idaho Code.

**5-337. IMMUNITY FOR USE OF AUTOMATED EXTERNAL DEFIBRILLATOR (AED).**

- (1) As used in this section, "defibrillator" means an "automated external defibrillator (AED)" which has been prescribed by a physician or osteopath licensed pursuant to chapter 18, title 54, Idaho Code.
- (2) In order to promote public health and safety:
  - (a) A person or entity who acquires a defibrillator as a result of a prescription shall ensure that:
    - (i) Expected defibrillator users receive training in its use and care equivalent to the CPR and AED training of the American heart association, the American Red Cross or similar entities;
    - (ii) The defibrillator is maintained and tested according to the manufacturer's operational guidelines;
    - (iii) There is involvement of a licensed physician in the site's program to ensure compliance with requirements for training, notification, maintenance and guidelines for use;
    - (iv) Any person who renders emergency care or treatment to a person in cardiac arrest by using a defibrillator must activate the emergency medical services system as soon as possible, and must report any clinical use of the defibrillator to the prescribing physician.
  - (b) Any person or entity who acquires a defibrillator as a result of a prescription shall notify an agent of the emergency communications system or emergency vehicle dispatch center of the existence, location and type of defibrillator.
- (3) No cause of action shall be maintained against a licensed physician, osteopath, physician assistant, nurse practitioner, or nurse, or against an emergency medical technician, fireman, peace officer, ambulance attendant or other person trained to use a defibrillator which arises from the good faith use of a defibrillator in an emergency setting and no cause of action shall be maintained against the physician or osteopath who wrote the prescription for the defibrillator if the prescription was written in good faith. This immunity from civil liability does not apply if the acts or omissions amount to gross negligence or willful or wanton misconduct.
- (4) A defibrillator acquired pursuant to a prescription and possessed in compliance with subsection (2) of this section is exempt from the provisions of chapter 10, title 56, Idaho Code.

## TITLE 6 ACTIONS IN PARTICULAR CASES

### 6-2401. LIABILITY FOR EMERGENCY RESPONSES.

- (1) Any person who knowingly enters into any area that has been closed to the public by competent authority for any reason, where such closure is posted by sign, barricade or other device, is liable for the expenses of an emergency response required to search for or rescue such person or, if the person was operating a vehicle, any of his or her passengers, plus expenses for the removal of any inoperable vehicle. This section shall not apply to any person who is authorized by the land owner, lessor or manager of the closed area, to be in the closed area, and further shall have no application to any federal, state or local government official who is in the closed area as part of his or her official duty, nor to any person acting in concert with a government authorized search or rescue.
- (2) Unless otherwise provided by law, subsection (1) of this section shall apply only to persons eighteen (18) years of age or older and shall apply to all such persons irrespective of whether the person is on foot, on skis or snowshoes, or is operating a motor vehicle, bicycle, vessel, watercraft, raft, snowmobile, all-terrain vehicle, or any other boat or vehicle of any description.
- (3) Unless otherwise provided by law, subsection (1) of this section shall only apply to the person who knowingly enters the closed area, and not to his or her family, heirs or assigns.
- (4) Expenses of an emergency response are a charge against the person liable for those expenses pursuant to subsection (1) of this section. The charge constitutes a debt of that person and may be collected proportionately by the public agencies, for-profit entities and not-for-profit entities that incurred the expenses. The person's liability for expenses of an emergency response shall not exceed four thousand dollars (\$4,000) for a single incident. The liability imposed under this section is in addition to and not in limitation of any other liability that is imposed.
- (5) An insurance policy may exclude coverage for a person's liability for expenses of an emergency response under this section.
- (6) Any public agency or private entity that receives full reimbursement from the state search and rescue fund shall not attempt to collect any money from the person. In such cases, the debt described in subsection (4) of this section is collectable by the state of Idaho for reimbursement to the state search and rescue fund.
- (7) For purposes of this section:
  - (a) "Expenses of an emergency response" means those reasonable and necessary costs directly incurred by public agencies, for-profit entities or not-for-profit entities that make an appropriate emergency response to an incident, and shall include the cost of providing police, firefighting, search and rescue, and emergency medical services at the scene of an incident and the salaries of the persons who respond to the incident.
  - (b) "Public agency" means this state and any city, county, municipal corporation or other public authority that is located in whole or in part in this state and that provides police, firefighting, medical or other emergency services.

## **TITLE 16 JUVENILE PROCEEDINGS**

### **16-1619. REPORTING OF ABUSE, ABANDONMENT OR NEGLECT.**

- (a) Any physician, resident on a hospital staff, intern, nurse, coroner, school teacher, day care personnel, social worker, or other person having reason to believe that a child under the age of eighteen (18) years has been abused, abandoned or neglected or who observes the child being subjected to conditions or circumstances which would reasonably result in abuse, abandonment or neglect shall report or cause to be reported within twenty-four (24) hours such conditions or circumstances to the proper law enforcement agency or the department. The department shall be informed by law enforcement of any report made directly to it. When the attendance of a physician, resident, intern, nurse, day care worker, or social worker is pursuant to the performance of services as a member of the staff of a hospital or similar institution, he shall notify the person in charge of the institution or his designated delegate who shall make the necessary reports.
- (b) For purposes of subsection (c) of this section the term "duly ordained minister of religion" means a person who has been ordained or set apart, in accordance with the ceremonial, ritual or discipline of a church or religious organization which has been established on the basis of a community of religious faith, belief, doctrines and practices, to hear confessions and confidential communications in accordance with the bona fide doctrines or discipline of that church or religious organization.
- (c) The notification requirements of subsection (a) of this section do not apply to a duly ordained minister of religion, with regard to any confession or confidential communication made to him in his ecclesiastical capacity in the course of discipline enjoined by the church to which he belongs if:
  - (1) The church qualifies as tax-exempt under 26 U.S.C. 501(c)(3);
  - (2) The confession or confidential communication was made directly to the duly ordained minister of religion; and
  - (3) The confession or confidential communication was made in the manner and context which places the duly ordained minister of religion specifically and strictly under a level of confidentiality that is considered inviolate by

canon law or church doctrine. A confession or confidential communication made under any other circumstances does not fall under this exemption.

(d) Failure to report as required in this section shall be a misdemeanor.

#### **16-2411. EMERGENCY MENTAL HEALTH RESPONSE AND EVALUATION – TEMPORARY DETENTION BY A PEACE OFFICER.**

(1) A peace officer may take a child into protective custody and immediately transport the child to a treatment facility for emergency mental health evaluation in the absence of a court order if and only if the officer determines that an emergency situation exists as defined in this chapter, and the officer has probable cause to believe, based on personal observation and investigation, representation of the child's parents or the recommendation of a mental health professional, that the child is suffering from serious emotional disturbance as a result of which he is likely to cause harm to himself or others or is manifestly unable to preserve his health or safety with the supports and assistance available to him and that immediate detention and treatment is necessary to prevent harm to the child or others.

(2) The officer shall immediately transport any child taken into protective custody under this section to a treatment facility or mental health program, such as a regional mental health center, a mobile crisis intervention program, or a therapeutic foster care facility, provided such center's program or facility has been approved by the regional office of the department for that purpose. The department shall make a list of approved facilities available to law enforcement agencies.

(3) Upon taking the child into protective custody, the officer shall take reasonable precautions to safeguard and preserve the personal property of the person unless a parent or guardian or responsible relative is able to do so. Upon presenting a child to a treatment facility the officer shall inform the staff in writing of the facts that caused him to detain the person, and shall specifically state whether the person is otherwise subject to being held for juvenile or criminal offenses.

(4) If the child who is being detained is not released to the child's parent, guardian or custodian, the law enforcement agency shall contact the child's parent, guardian or custodian as soon as possible, and in no case later than twenty-four (24) hours, and shall notify the child's parent, guardian or custodian of his status, location and the reasons for the detention of the child. If the parents cannot be located or contacted, efforts to comply with this section and the reasons for failure to make contact shall be documented in the child's record.

### **TITLE 18 CRIMES AND PUNISHMENTS**

**18-915. ASSAULT OR BATTERY UPON CERTAIN PERSONNEL -- PUNISHMENT.** Any person who commits a crime provided for in this chapter against or upon a justice, judge, magistrate, prosecuting attorney, public defender, peace officer, bailiff, marshal, sheriff, police officer, correctional officer, employee of the Department of Correction, employee of a private prison contractor while employed at a private correctional facility in the state of Idaho, employees of the department of water resources authorized to enforce the provisions of chapter 38, title 42, Idaho Code, jailer, parole officer, officer of the Idaho state police, fireman, social caseworkers or social work specialists of the Department of Health and Welfare, employee of a state secure confinement facility for juveniles, employee of a juvenile detention facility, a teacher at a detention facility or a juvenile probation officer, emergency medical technician certified by the Department of Health and Welfare, emergency medical technician-ambulance certified by the Department of Health and Welfare, advanced emergency medical technician and EMT-paramedic certified by the state Board of Medicine, a member, employee or agent of the state tax commission, United States marshal, or federally commissioned law enforcement officer or their deputies or agents and the perpetrator knows or has reason to know of the victim's status, the punishment shall be as follows:

(a) For committing battery with intent to commit a serious felony the punishment shall be imprisonment in the state prison not to exceed twenty-five (25) years.

(b) For committing any other crime in this chapter the punishment shall be doubled that provided in the respective section, except as provided in subsections (c) and (d) of this section.

(c) For committing a violation of the provisions of section 18-901 or 18-903, Idaho Code, against the person of a justice, judge or magistrate, jailer or correctional officer or other staff of the Department of Correction, or a county jail, or of a private correctional facility, or of an employee of a state secure confinement facility for juveniles, an employee of a juvenile detention facility, a teacher at a detention facility or a juvenile probation officer and the person committing the offense knows or reasonably should know that such victim is a justice, judge or magistrate, jailer or correctional officer or other staff of the Department of Correction, or of a private correctional facility, an employee of a state secure confinement facility for juveniles, an employee of a juvenile detention facility, a teacher at a detention facility or a juvenile probation officer because of the victim's former or present official status, and the victim is engaged in the performance of his duties,

the offense shall be a felony punishable by imprisonment in a correctional facility for a period of not more than five (5) years, and said sentence shall be served consecutively to any sentence being currently served.

(d) For committing a violation of the provisions of section 18-903, Idaho Code, except unlawful touching as described in section 18-903(b), Idaho Code, against the person of a peace officer, sheriff or police officer because of the victim's former or present official status, the offense shall be a felony punishable by imprisonment in a correctional facility for a period of not more than five (5) years, and said sentence shall be served consecutively to any sentence being currently served.

#### **18-6810. INTENTIONAL DESTRUCTION OF A TELECOMMUNICATION LINE OR TELECOMMUNICATION INSTRUMENT.**

(1) Any person who intentionally takes down, removes, injures or obstructs in any manner any telecommunication line or, any part thereof, or appurtenances or apparatus connected therewith, or severs any wire thereof or who intentionally takes, withholds, takes down, removes, injures or obstructs any telephone instrument or other instrument that is used or could be used to facilitate the transmission of messages, signals, facsimiles, video images or other communication by means of telephone, telegraph, cable, wire or the projection of energy or waves without physical connection (such as wireless or cellular), with the intent to prohibit, disrupt, inhibit, delay, disconnect or otherwise interfere with a person's ability to make contact with or otherwise communicate with an emergency service provider is guilty of a misdemeanor and shall be punished by a fine of up to one thousand dollars (\$1,000) or by imprisonment in the county jail for up to one (1) year, or both.

(2) For purposes of this statute, a "telecommunication line" shall be defined as any line used or that could be used for the transmission of any type of message or information, regardless of form or content.

(3) For purposes of this statute, an "emergency service provider" includes law enforcement, emergency medical service providers (including, but not limited to, ambulance, EMS, or paramedic service providers), fire suppression service providers, dispatch centers, dispatch personnel, and any person, entity, or security business (including private business) that has the authority to dispatch such service providers or that otherwise makes available the service of requesting a response, or providing notification of the need for a response, by any of the foregoing emergency service providers. The term "emergency service provider" shall also include any personnel, service or entity that can be contacted, either directly or indirectly, by dialing "911."

### **TITLE 31 COUNTIES AND COUNTY LAW**

**31-3901. AUTHORIZATION TO ESTABLISH AMBULANCE SERVICE -- SPECIAL LEVY.** The boards of county commissioners in the several counties are hereby authorized, whenever existing ambulance service is not reasonably available to the inhabitants of the county or any portion thereof, to procure an ambulance and pay for the same out of any funds available and to establish an ambulance service to serve the areas, which do not have an existing ambulance service reasonably available, both within and outside the cities and villages in their respective counties, and to levy a special tax not to exceed two hundredths percent (.02%) of the market value for assessment purposes on all taxable property within the county to support the same. Providing ambulance service is a governmental function.

**31-3902. COUNTY TREASURERS TO ESTABLISH AMBULANCE SERVICE FUND.** The county treasurer of each county in which an ambulance service has been established pursuant to this act shall establish a fund to be designated as the ambulance service fund, and used exclusively for the purposes of this act.

**31-3903. AMBULANCE SERVICE -- POWERS AND DUTIES OF BOARD OF COUNTY COMMISSIONERS.** The board of county commissioners shall determine the manner in which said ambulance service shall be operated, and is empowered to make expenditures from the ambulance service fund for the purchase or lease of real property and the construction of buildings necessary in connection with said service, to acquire necessary equipment for the operation and maintenance of said service, and to pay necessary salaries.

**31-3904. AMBULANCE SERVICE -- FEES.** The board of county commissioners shall adopt a schedule of fees to be charged for the use of said ambulance service. All such fees shall be collected, accounted for and paid to the county treasurer for deposit in the ambulance service fund, and shall be used to pay expenses as incurred in the maintenance and operation of said ambulance service.

**31-3905. AMBULANCE SERVICE -- OPERATION DEPENDENT UPON RESOLUTION OF EACH CITY -- RIGHT TO TAX UNAFFECTED BY NONSERVICE.** All cities and villages within the county, upon resolution duly passed and approved and presented to the board of county commissioners, may authorize said ambulance service to operate within the boundaries of said city or village, but the failure of any such governing body to authorize said ambulance service to operate within the limits of said village or city, shall not affect the right of the board of county commissioners to levy the tax as hereinbefore provided.

**31-3906. AMBULANCE SERVICE -- ADJACENT COUNTIES AND/OR PRIVATE INDIVIDUALS AND CORPORATIONS MAY HAVE COOPERATIVE AGREEMENT.** The board of county commissioners of any county wherein such ambulance service has been established is authorized in its discretion and under such terms and conditions as it deems appropriate to enter into a cooperative agreement with adjacent counties and for private individuals and corporations to provide ambulance service for such county or counties or a portion thereof. All cost of said service shall be apportioned equitably among the participating counties as determined by their respective boards of county commissioners.

**31-3907. AMBULANCE SERVICE -- TERMINATION OF.** Any county having adopted and established an ambulance service as provided in this act may terminate the same for good cause by the adoption of a resolution by the board of county commissioners. Upon the termination of said ambulance service, all vehicles and property not necessary for other county purposes shall be sold and the proceeds therefrom paid to the county treasurer to be deposited in the general fund of the county. All moneys on deposit in the ambulance service fund shall be transferred to the general fund of the county.

**31-3908. AMBULANCE DISTRICT AUTHORIZED.**

(1) The county commissioners of any county shall, upon petition signed by not less than fifty (50) qualified electors of said county, or any portion thereof, which may exclude incorporated cities, undertake the following procedure to determine the advisability of resolving to establish and maintain an ambulance service district within the county as may be designated in the petition.

(a) A petition to form an ambulance service district shall be presented to the county clerk and recorder. The petition shall be signed by not less than fifty (50) of the resident real property holders within the proposed district. The petition shall designate the boundaries of the district.

(b) The petition shall be filed with the county clerk and recorder of the county in which the signers of the petition are located. Upon the filing of the petition the county clerk shall examine the petition and certify whether the required number of petitioners have signed the petition. If the number of petition signers is sufficient, the clerk shall transmit the petition to the board of county commissioners.

(c) Upon receipt of a duly certified petition the board of county commissioners shall cause the text of the petition to be published once a week for at least three (3) consecutive weeks in a newspaper of general circulation within the county. With the publication of the petition there shall be published a notice of the time of the meeting of the board of county commissioners when the petition will be considered stating that all persons interested may appear and be heard. No more than five (5) names attached to the petition shall appear in the publication and notice, but the number of signatures shall be stated. At the time of filing the petition the sponsors thereof shall cause to be deposited with the county clerk a sufficient sum of money to cover the cost of publication of the petition and all necessary notices. If the petition and notices are not published the deposit shall be returned to whomever deposited the funds, and if there is any surplus remaining after paying for the publication as herein provided it shall be returned to the original depositors, and if a district is created the fees so expended are an obligation of the district and shall be repaid by the district to the depositors.

(d) At the time set for hearing the petition, the board of county commissioners shall hear all persons who desire to be heard relative to the creation of an ambulance service district. The board of county commissioners may, if they so desire and it appears desirable, adjourn the meeting for not to exceed thirty (30) days in time to further hear the petitioners and protestants, if any. After the hearing or hearings, the board of county commissioners shall adopt a resolution either creating the proposed ambulance service district or denying the petition. When the board of county commissioners creates an ambulance service district the board shall adopt a resolution describing the boundaries of the district.

(e) When the board of county commissioners adopts the resolution creating the ambulance service district, the board shall include in the resolution the name of the district, and file a copy of the order creating the district with the county clerk and recorder, for which the clerk shall receive a fee of three dollars (\$3.00).



- (f) Procedures for annexation, deannexation, or dissolution of a district created pursuant to this section shall be in substantial compliance with the provisions for public notice and hearing provided herein, and shall be by resolution adopted by the board of county commissioners.
- (2) When the board of county commissioners has ordered the creation of an ambulance service district, pursuant to the provisions of this section, such district is hereby recognized as a legal taxing district, and providing ambulance service is a governmental function.
- (3) The board of county commissioners shall be the governing board of an ambulance service district created pursuant to this section, and shall exercise the duties and responsibilities provided in chapter 39, title 31, Idaho Code.
- (4) In any county where an ambulance service district is created as provided herein, the board of county commissioners is authorized to levy a special tax, not to exceed four-hundredths percent (.04%) of market value for assessment purposes, except as authorized by subsection (a) below, upon all taxable property within the district for the purposes of the district, but the levy otherwise authorized in section 31-3901, Idaho Code, shall not be made on taxable property within the district.
- (a) In any county where an ambulance service district has been created as of January 1, 1976, and the market value for assessment purposes of the district is less than three hundred million dollars (\$300,000,000), the board of county commissioners is authorized to levy a special tax, not to exceed ten-hundredths percent (.10%) of market value for assessment purposes, upon all taxable property within the district for the purposes of the district, but the levy otherwise authorized in section 31-3901, Idaho Code, shall not be made on taxable property within the district.
- (5) The board of county commissioners is authorized by resolution to create an ambulance district capital improvement account. The board may dedicate all or a portion of the fees and taxes collected pursuant to this chapter to the capital improvement account for the purpose of purchasing necessary buildings, land or equipment for the operation of the district. The board is further authorized to carry over and add to the funds in the account from year to year in order to make the purchases authorized by this subsection.

**31-3908A. EXEMPTIONS FROM TAXATION.** The board of county commissioners, upon application, may, by an ordinance enacted by not later than the second Monday of July, exempt all or a portion of the unimproved real property within the district from taxation, and may exempt all or a portion of the taxable personal property within the district from taxation. Any ordinance of the board of county commissioners granting an exemption from taxation under the provisions of this section must provide that each category of property is treated uniformly. Notice of intent to adopt an ordinance which exempts unimproved real property shall be provided to property owners of record in substantially the same manner as required in section 67-6511(b), Idaho Code, as if the ordinance were making a zoning district boundary change.

**31-3909. IMMUNITY OF AMBULANCE ATTENDANT.** No action shall lie or be maintained for civil damages in any court of this state against any person or person[s], or group of persons, including ambulance attendants employed by an ambulance service district, who offers and administers first aid or emergency medical attention as a part of his normal duty as an ambulance attendant to any person or person[s] utilizing the services and facilities of an ambulance service district, unless it can be shown that the person or persons offering or administering first aid or emergency medical attention is guilty of gross negligence in the care or treatment offered or administered, or has treated them in a grossly negligent manner. The immunity described herein shall cease upon delivery of the injured or treated person to either a generally recognized hospital for treatment of ill or injured persons, or upon assumption of treatment in the office or facility of any person undertaking to treat said ill or injured person or persons.

**31-3910. CONSENT FOR EMERGENCY MEDICAL TREATMENT.** The authorization or refusal of consent for emergency medical treatment under chapter 39, title 31, Idaho Code, shall be governed by chapter 43, title 39, Idaho Code.

**31-4801. PURPOSE.** The legislature recognizes that providing consolidated emergency communications systems is vital in enhancing the public health, safety, and welfare of the residents of the state of Idaho. The legislature further finds that there is an obvious need for providing a means to finance the initiation, maintenance, operation, enhancement and governance of consolidated emergency communications systems.

- (1) The legislature of the state of Idaho finds that:
- (a) Since the original enactment of the emergency communications act in 1988, many of Idaho's communities have found that they are lacking in the resources to fully fund emergency communications systems at the local level;

- (b) Changes in technology and the rapid growth of communications media have demonstrated that financing such systems solely by a line charge on subscribers to wire-line services does not reflect utilization of emergency communications systems by subscribers to wireless and other forms of communications systems;
  - (c) There is a need to enhance funding for the initiation and enhancement of consolidated emergency communications systems throughout the state;
  - (d) Utilization of cellular telephones to access emergency communications systems has substantially increased citizen access to emergency services while at the same time increasing demands upon the emergency response system;
  - (e) In order to protect and promote the public health and safety, and to keep pace with advances in telecommunications technology and the various choices of telecommunications technology available to the public, there is a need to plan and develop a statewide coordinated policy and program to ensure that enhanced 911 services are available to all citizens of the state and in all areas of the state.
- (2) Therefore, it is hereby declared that the intent and purpose of the provisions of this act are to:
- (a) Provide authority to counties and 911 service areas to impose an emergency communications fee on the use of both telephone lines and wireless communications systems;
  - (b) Provide that the emergency communications fee shall be exclusively utilized by the counties or 911 service areas electing to impose it to finance the initiation, maintenance, operation, enhancement and governance of consolidated emergency systems as well as enhanced consolidated emergency systems;
  - (c) Provide for the agreed-to reimbursement to telecommunications providers for their implementation of enhanced consolidated emergency communications systems by counties or 911 service areas that have implemented enhanced consolidated emergency communications systems.

**31-4802. DEFINITIONS.** As used in this chapter:

- (1) "Access line" means any telephone line, trunk line, network access register, dedicated radio signal, or equivalent that provides switched telecommunications access to a consolidated emergency communications system from either a service address or a place of primary use within this state. In the case of wireless technology, each active dedicated telephone number shall be considered a single access line.
- (2) "Administrator" means the person, officer or agency designated to operate a consolidated emergency communications system, and to receive funds for such an operation.
- (3) "Basic consolidated emergency system" means consolidated emergency systems that are not enhanced.
- (4) "Consolidated emergency communications system" means facilities, equipment and dispatching services directly related to establishing, maintaining, or enhancing a 911 emergency communications service.
- (5) "Emergency communications fee" means the fee provided for in section 31-4803, Idaho Code.
- (6) "Enhanced consolidated emergency system" means consolidated emergency systems that provide enhanced wireless 911 service and include, but are not limited to, the technological capability to provide call back numbers, cell site locations, and the location of calls by latitude and longitude and made through the systems of wireless carriers.
- (7) "Governing board" means the joint powers board, if the 911 service area is a multicounty area, or the board of county commissioners of the county, or the city council if the 911 service area is a city, or both the board of county commissioners and the city council if the 911 service area includes both city and county residents but not the entire county.
- (8) "911 service area" means a regional, multicounty, county or area other than a whole county in which area the residents have voted to establish a consolidated emergency communications system.
- (9) "Place of primary use" means the residential street address or the primary business street address in Idaho where the customer's use of the wireless service primarily occurs.
- (10) "Telecommunications provider" means any person providing exchange telephone service to a service address within this state or any wireless carrier providing telecommunications service to any customer having a place of primary use within this state.
- (11) "Wireless carrier" means a cellular licensee, a personal communications service licensee, and certain specialized mobile radio providers designated as covered carriers by the Federal Communications Commission in 47 CFR 20.18 and any successor to such rule.

**31-4803. AUTHORITY TO ESTABLISH AND FOR VOTERS TO APPROVE FUNDING FOR A CONSOLIDATED EMERGENCY COMMUNICATIONS SYSTEM.**

- (1) The board of commissioners of any county may establish a consolidated emergency communications system by virtue of authority granted by this chapter or by chapter 23, title 67, Idaho Code. The service area may be regional,

multicounty, countywide, or any part or parts of the county, and may include or exclude a city or cities. If the board of county commissioners has adopted a resolution stating that the county is unable to establish a countywide consolidated emergency communications system, or if the voters reject a countywide consolidated 911 system, then a 911 service area may be established by action of any city or cities within the county. The 911 service area shall be described in the ordinance of creation. The ordinance shall further provide for an election on the question as provided in subsection (2) of this section. The ordinance of creation shall define the governing board, designate the administrator, and the agency to service the 911 calls. The costs of the election ordered by the county shall be a proper charge against the county current expense fund. The costs of the election for a 911 service area shall be a proper charge against the city or cities initiating the election.

(2) The voters of any county or 911 service area may authorize funding to support implementation of a consolidated emergency communications system pursuant to the provisions of this chapter. The authorization to provide such funding must be made by the registered voters of the county or of the 911 service area at either a primary or general election. A notice for any election shall be published for twenty (20) days as required by section 60-109, Idaho Code. A sixty percent (60%) majority of the votes cast in favor of the question shall be necessary to authorize the emergency communications fee.

(3) If a 911 system is to be financed in whole or in part by an emergency communications fee, the governing board shall submit the question to the electors of the county or 911 service area in substantially the following form:

"Shall the governing board of ..... be authorized to institute an emergency communications fee in an amount no greater than one dollar (\$1.00) per month to be used to fund an emergency telephone system, commonly known as 911 service?".

(4) No emergency communications fee for a consolidated emergency communications system shall be charged without voter approval as provided in subsection (2) of this section.

(5) Any net savings in operating expenditures realized by any taxing district utilizing a consolidated emergency communications system shall be used by that taxing district for a reduction in the property tax charges of that taxing district.

(6) If the voters of any county or 911 service area have previously approved funding of a consolidated emergency communications system in the manner provided in subsections (2) and (3) of this section, no further vote is necessary to authorize the emergency communications fee set forth in this act.

(7) Effective October 1, 2004, and every year thereafter, the emergency communications fee provided for in this act shall be reviewed and modified as required by this subsection by the board of commissioners of a countywide system or by the governing board of a 911 service area as follows:

(a) The level of the emergency communications fee shall be reviewed and, as appropriate and necessary, readjusted by action of the board of commissioners or the governing board on an annual basis. The board of commissioners or governing board shall set the level of the fee based upon the revenue requirements necessary to implement an annual budget prepared under the direction of the board of commissioners or governing board for the initiation, maintenance, operation, enhancement and governance of a consolidated emergency communications system, including both basic and, if applicable, enhanced consolidated emergency systems.

(b) The revenues from emergency communications fees shall be exclusively expended pursuant to the budget established in paragraph (a) of this subsection. Use of such revenues for any other purpose is expressly prohibited.

(c) The process of reviewing and setting the level of emergency communications fees shall be governed by the meeting and public notice provisions of section 31-710(4), Idaho Code. For the purposes of this section, the setting of a fee shall be deemed to be the promulgation of a rule such that public participation provisions of section 67-5222, Idaho Code, shall apply to the meetings of the board of commissioners or of a governing board pursuant to this section.

### **31-4804. EMERGENCY COMMUNICATIONS FEE.**

(1) The emergency communications fee provided pursuant to the provisions of this chapter shall be a uniform amount not to exceed one dollar (\$1.00) per month per access line, and such fee shall be used exclusively to finance the initiation, maintenance, operation, enhancement and governance of a consolidated emergency communications system and provide for the reimbursement of telecommunications providers for implementing enhanced consolidated emergency systems as provided for in section 31-4804A, Idaho Code. All emergency communications fees collected and expended pursuant to this section shall be audited by an independent, third party auditor ordinarily retained by the governing board for auditing purposes. The purpose of the audit as related to emergency communications systems is to verify the accuracy and completeness of fees collected and costs expended.

(2) The fee shall be collected from customers on a monthly basis by all telecommunications providers that make available access lines to persons within the county, or 911 service area, and may be listed as a separate item on customers' monthly bills.

(3) The telecommunications providers shall remit such fee to the county treasurer's office or the administrator for the 911 service area based upon the 911 service area from which the fees were collected. In the event the telecommunications provider remits such fees based upon the emergency communications fee billed to the customer, a deduction shall be allowed for uncollected amounts when such amounts are treated as bad debt for financial reporting purposes.

(4) From every remittance to the governing body made on or before the date when the same becomes due, the telecommunications provider required to remit the same shall be entitled to deduct and retain one percent (1%) of the collected amount as the cost of administration for collecting the charge. Telecommunications providers will be allowed to list the surcharge as a separate item on the telephone subscriber's bill, and shall have no obligation to take any legal action to enforce the collection of any charge, nor be held liable for such uncollected amounts.

(5) Use of fees. The emergency communications fee provided hereunder shall be used only to pay for the lease, purchase or maintenance of emergency communications equipment for basic and enhanced consolidated emergency systems, including necessary computer hardware, software, database provisioning, training, salaries directly related to such systems, costs of establishing such systems, and agreed-to reimbursement costs of telecommunications providers related to the operation of such systems. All other expenditures necessary to operate such systems and other normal and necessary safety or law enforcement functions including, but not limited to, those expenditures related to overhead, staffing, administrative and other day to day operational expenditures, shall continue to be paid through the general funding of the respective governing boards.

#### **31-4804A. ESTABLISHMENT OF ENHANCED CONSOLIDATED EMERGENCY COMMUNICATIONS SYSTEMS.**

(1) Any county or 911 service area that has established a basic consolidated emergency system may establish an enhanced consolidated emergency system by action of the governing board of the basic consolidated emergency system.

(2) The governing boards establishing enhanced consolidated emergency systems shall request that wireless carriers serving such counties or 911 service areas collectively implement an enhanced consolidated emergency communications system within a reasonable time. When so requested, all wireless carriers serving such counties or 911 service areas shall implement enhanced consolidated emergency communications systems within a reasonable time. The governing boards and wireless carriers shall enter into agreements that:

(a) Establish the scope and purpose of the proposed enhanced consolidated emergency communications system.

(b) Provide for an agreed-to level of reimbursement for telecommunications providers for the costs of wireless carriers resulting from their implementation and operation of enhanced emergency communications systems that may include the acquisition, construction, financing, installation and operation of all equipment and facilities necessary to implement such enhanced systems.

(c) Provide that the agreed-to level of reimbursement for telecommunications providers for enhanced 911 service may include the costs and expenses incurred for designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware and software required in order to provide such service as well as the recurring and nonrecurring costs of operating such service. All costs and expenses must be commercially reasonable.

(d) Provide that reimbursement to a telecommunications provider shall be nondiscriminatory and be made available to all other telecommunications providers.

Agreements shall provide for prompt reimbursement on invoices submitted by wireless carriers to the governing board.

**31-4805. ESTABLISHMENT OF JOINT POWERS BOARD FOR OPERATION OF EMERGENCY COMMUNICATIONS SERVICE.** Within one hundred eighty (180) days following voter approval of an emergency communications fee as provided in section 31-4803, Idaho Code, a governing board or administrator may be established under a joint powers agreement pursuant to sections 67-2326 through 67-2332, Idaho Code. Such joint powers board or administrator shall be responsible for establishing, maintaining, operating, enhancing and governing a consolidated emergency communications system. Providing an emergency communications service shall be considered a governmental function.

#### **31-4806. AUTHORIZATION FOR GOVERNING BOARD TO APPOINT OFFICIAL TO SUPERVISE EMERGENCY COMMUNICATIONS SERVICE IN THE ABSENCE OF JOINT POWERS AGREEMENT.**

10/5/04

Page 11

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Whenever the electors approve imposing the emergency communications fee as provided in this chapter, but in the absence of an agreement to form a joint powers board or administrator as provided in this chapter, the governing board is hereby authorized to appoint an official or administrator to maintain, operate, enhance and govern a consolidated emergency communications system.

**31-4807. RIGHT TO FEE NOT AFFECTED BY NONSERVICE.** All governmental entities within the county that have an already established emergency communications system using 911 call access, upon resolution duly adopted and approved and presented to the joint powers board or in their absence to the board of county commissioners, may ask that their existing emergency communication system area be excluded and such area shall be excluded from the county-wide emergency communications service but such exclusion shall not affect the right of the board of county commissioners to levy the fees as herein provided. No city or other agency shall establish an individual emergency communication system once a county-wide system as provided in this chapter has been adopted by the board of county commissioners. Whenever an area is excluded pursuant to this section, the board of county commissioners shall remit to the excluded entity one hundred percent (100%) of the fees collected in the excluded area as provided pursuant to this chapter. Any area excluded pursuant to this section may be subsequently included upon resolution duly adopted and approved and presented to the joint powers board or, in their absence, to the board of county commissioners.

**31-4808. TERMINATION.**

- (1) Any county or joint powers board having adopted and established an emergency communications system as provided in this chapter may terminate the same for good cause.
- (2) If, after the formation of any 911 service area of less than county-wide extent, the voters of the county approve 911 service for the entire county, the newly formed county-wide 911 service area shall assume all of the assets and liabilities of all 911 service areas existing in that county at the time of formation of the county-wide system. Existing 911 service areas shall have two (2) years from the date of the county-wide election to merge into the county-wide consolidated emergency communications system.

**31-4809. FUND AND APPROPRIATIONS.** The county treasurer of each county or the administrator for a 911 service area in which an emergency communications system has been established pursuant to this chapter shall establish a fund to be designated the emergency communications fund in which all fees collected pursuant to this chapter shall be deposited and such fund shall be used exclusively for the purposes of this chapter. The moneys collected and the interest earned in this fund shall be appropriated by the county commissioners, or governing board, for expenses incurred by the emergency communications system as set forth in an annual budget prepared by the joint powers board, or in their absence, the county commissioners and incorporated into the annual county budget.

**31-4810. EXISTING JOINT COUNTY-WIDE EMERGENCY DISPATCH SYSTEMS NOT AFFECTED.** Joint county-wide emergency dispatch systems that are in existence prior to July 1, 1987, shall not be affected by the provisions of this chapter. These emergency dispatch systems may continue to function as they have and shall be eligible to receive revenues generated by this chapter.

**31-4811. PAY PHONES TO BE CONVERTED TO ALLOW EMERGENCY CALLS WITHOUT CHARGE.** Every provider of telephone service or other owner of a pay station telephone in an area served by an emergency telephone system established pursuant to this chapter must convert every pay station telephone to permit dialing 911 or the telephone company operator without deposit of a coin or other charge to the caller. Conversion must be completed by or before the time the emergency telephone system is operational. If modification of telephone service switching equipment is necessary to implement the provisions of this section, such modification shall be considered a cost of the emergency communications program and the provider of telephone service shall be compensated from the user fees authorized for this chapter upon application to the county, providing that such costs are approved by the public utilities commission.

**31-4812. IMMUNITY AND CONDITIONS OF LIABILITY IN PROVIDING EMERGENCY COMMUNICATIONS SERVICE.** In order to further the purposes of this chapter, and to encourage the development of consolidated emergency communications systems, the legislature finds that telecommunications providers making available consolidated emergency communications systems and related services shall not be subject to liability in conjunction with providing such services except on the terms stated below.

- (1) No telecommunications provider shall be liable to any person for the good faith release to emergency communications system personnel of information not in the public record including, but not limited to, nonpublished or nonlisted telephone numbers.
- (2) A telecommunications provider making available emergency communications systems or services, and its employees and agents, shall not be liable in tort to any person for damages alleged to have been caused by the design, development, installation, maintenance or provision of consolidated emergency communications systems or services, unless such entities or persons act with malice or criminal intent, or commit reckless, willful and wanton conduct.
- (3) For the purposes of this section, "reckless, willful and wanton conduct" is defined as an intentional and knowing action, or failure to act, creating an unreasonable risk of harm to another, and which involves a high degree of probability that such harm will result.

### **31-4815. CREATION OF IDAHO EMERGENCY COMMUNICATIONS COMMISSION -- TERMS.**

- (1) There is hereby created in the Department of Administration an Idaho emergency communications commission (hereinafter referred to as "the commission") for the purpose of assisting cities, counties, ambulance districts and fire districts in the establishment, management, operations and accountability of consolidated emergency communications systems. Notwithstanding any other provision of law to the contrary, the commission shall, upon being constituted, exercise its powers and duties in accordance with the provisions of this section relative to consolidated emergency communications in this state established by enactment of the legislature or by private act.
- (2) The commission shall be composed of thirteen (13) voting members, with eleven (11) appointed by the governor as follows: one (1) member representing the Association of Idaho Cities, one (1) member representing the Idaho Association of Counties, one (1) member representing the Idaho sheriffs' Association, one (1) member representing the Idaho Chiefs of Police Association, one (1) member representing the Idaho Fire Chiefs Association, one (1) member representing the Idaho Prosecuting Attorneys Association, one (1) member representing the Idaho State Emergency Medical Services Communications Center, one (1) member representing the Idaho Emergency Medical Services Association, one (1) member representing the public at large and two (2) members representing private industry service providers, one (1) from the wireless industry and one (1) from the traditional phone service industry. The commission shall also include the Director of the Idaho State Police or a designated representative and the adjutant general or a designated representative. One (1) representative of the Attorney General shall serve as a nonvoting ex officio member.
- (3) Except as provided in this subsection, members of the commission shall be appointed for a term of four (4) years. The following five (5) members shall be appointed to an initial term of two (2) years: the member representing the Idaho Fire Chiefs Association, the member representing the Idaho State Emergency Medical Services Communications Center, the member representing the Idaho Emergency Medical Services Association, the member representing the wireless industry, and one (1) member representing the public. The remaining six (6) members appointed by the governor shall be appointed for an initial term of four (4) years. Thereafter, all terms shall be for a period of four (4) years.
- (4) The commission shall elect a chair and such officers as it may deem necessary and appropriate. The commission shall meet at least annually and at the call of the chair. Members of the commission shall be compensated as provided in section 59-509(b), Idaho Code. Compensation shall be paid from the emergency communications fund created in section 31-4818, Idaho Code.

### **31-4816. IDAHO EMERGENCY COMMUNICATIONS COMMISSION -- PURPOSES AND RESPONSIBILITIES.** The purposes and responsibilities of the commission are to:

- (1) Determine the status and operability of consolidated emergency communications systems statewide;
- (2) Determine the needs for the upgrade of consolidated emergency communications systems;
- (3) Determine the costs for the upgrades;
- (4) Recommend guidelines and standards for operation of consolidated emergency communications systems;
- (5) Recommend funding mechanisms for future implementation of upgrades;
- (6) Serve as a conduit for the future allocation of federal grant funds to support the delivery of consolidated emergency communications systems;
- (7) Report annually to the legislature of the state of Idaho on the planned expenditures for the next fiscal year, the collected revenues and moneys disbursed from the fund and programs or projects in progress, completed or anticipated;
- (8) Enter into contracts with experts, agents, employees or consultants as may be necessary to carry out the purposes of this chapter; and
- (9) Promulgate rules pursuant to the provisions of chapter 52, title 67, Idaho Code, to carry out the purposes of the commission's duties.

**31-4817. IDAHO EMERGENCY COMMUNICATIONS COMMISSION -- MEDIATION.** In the event that a dispute arises between local government entities over the governance of operations of consolidated emergency communications systems, those local governments shall be required, prior to initiating any legal action, to submit the contested issue or issues to the commission for purposes of mediation. The commission shall have sixty (60) days from the date of submission of any issues to mediate and recommend a course of action to the local governments involved in the dispute. Any recommendation of the commission shall be advisory only and shall not be binding on the parties involved. After receipt of any recommendation by the commission, the local governments may accept in whole or in part the recommendations or may initiate legal action as provided by contract or law.

**31-4818. IDAHO EMERGENCY COMMUNICATIONS FUND -- ESTABLISHMENT AND ADMINISTRATION.**

- (1) There is hereby created within the Treasury of the state of Idaho a separate fund known as the Idaho emergency communications fund, which shall consist of moneys received from counties, cities, consolidated emergency communications operations, grants, donations, gifts and revenues from any other source to support the delivery of consolidated emergency communications systems.
- (2) Moneys in the fund are hereby continuously appropriated and shall be utilized exclusively for the purposes set forth in this chapter as determined by the commission.
- (3) Annually, at the direction of the commission, not more than one percent (1%) of the total emergency communications fees collected in the state of Idaho is hereby dedicated for and shall be placed in the fund on a quarterly basis by county, city or consolidated emergency communications systems. The commission, on an annual basis, shall prepare a budget indicating that portion of the fee necessary for the continuous operation of the commission to achieve the purposes of this chapter.
- (4) The commission shall authorize disbursement of moneys in the fund to eligible entities.

## **TITLE 33 EDUCATION**

**33-4302A. PUBLIC SAFETY OFFICER DEPENDENT SCHOLARSHIPS -- STATE AID.**

- (1) Any dependent of a full-time or part-time public safety officer, as defined in subsection [(15)] of this section, employed by or volunteering for the state of Idaho or for a political subdivision of the state of Idaho, which public safety officer is or was a resident of the state of Idaho at the time such officer was killed or disabled in the line of duty shall be admitted to attend any public institution of higher education or public professional-technical college within the state of Idaho without the necessity of paying tuition and fees therefore. Said dependents shall be provided by the institution or college with books, equipment and supplies necessary for pursuit of the dependent's chosen program of enrollment not to exceed the actual cost therefore, or five hundred dollars (\$500), whichever is less, per quarter, semester, intensified semester, or like education period. Said dependent shall be provided with the institution or college's published normal on-campus residential facility housing and meals program for each month the dependent is enrolled full time under this statute and continues to actually reside in such on-campus residential facility. Provided however, that the educational benefits provided for in this section shall not exceed a total of thirty-six (36) months or four (4) nine-month periods; provided further, that such educational benefits shall not extend beyond ten (10) years following the date the dependent receives a high school diploma, a high school equivalency diploma, a special diploma or a certificate of high school completion, or beyond the date such dependent turns thirty (30) years old, whichever comes first.
- (2) The dependent shall be required to meet the educational qualifications as such institution of higher education or professional-technical college as established for other prospective students of this state. Application for eligibility under this section shall be made to the State Board of Education and Board of Regents of the University of Idaho. The board shall verify the eligibility of the dependent and communicate such eligibility to the dependent and the affected institution or college.
- (3) Affected institutions and colleges shall, in their preparation of future budgets, include therein costs resulting from such tuition, fees, housing, meals, books, equipment and supplies for reimbursement thereof from appropriation of state funds. For the purposes of this section, a public safety officer employed by or volunteering for the state of Idaho or for a political subdivision of the state of Idaho is considered disabled if he or she is unable to perform with reasonable continuity the material duties of any gainful occupation for which he or she is reasonably fitted by education, training and experience.
- (4) The scholarships provided in this section shall be available for dependents of public safety officers who were killed or disabled in 1975 or thereafter.

- (5) For purposes of this section:
  - (a) "Public safety officer" means a peace officer or firefighter, or a paramedic, emergency medical technician or first responder as those terms are defined in section 56-1012, Idaho Code.
  - (b) "Volunteering" means contributing services as a bona fide member of a legally organized law enforcement agency, fire department or licensed emergency medical service provider organization.
- (6) The scholarship provided in this section shall not be available unless it is determined that:
  - (a) The death or disablement of the public safety officer occurred in the performance of the officer's duties;
  - (b) The death or disablement was not caused by the intentional misconduct of the public safety officer or by such officer's intentional infliction of injury; and
  - (c) The public safety officer was not voluntarily intoxicated at the time of death.

## **TITLE 39 HEALTH AND SAFETY**

### **39-105. POWERS AND DUTIES OF THE DIRECTOR.** The director shall have the following powers and duties:

- (1) All of the rights, powers and duties regarding environmental protection functions vested in the department of health and welfare, and its director, administered by the division of environmental quality, including, but not limited to, those provided by chapters 1, 4, 30, 36, 44, 58, 62, 64, 65, 66, 70, 71, 72 and 74, title 39, Idaho Code. The director shall have all such powers and duties as described in this section as may have been or could have been exercised by his predecessors in law, and shall be the successor in law to all contractual obligations entered into by predecessors in law. All hearings of the director shall be governed by the provisions of chapter 52, title 67, Idaho Code.
- (2) The director shall, pursuant and subject to the provisions of the Idaho Code, and the provisions of this act, formulate and recommend to the board, rules as may be necessary to deal with problems related to water pollution, air pollution, solid waste disposal, and licensure and certification requirements pertinent thereto, which shall, upon adoption by the board, have the force of the law relating to any purpose which may be necessary and feasible for enforcing the provisions of this act, including, but not limited to, the prevention, control or abatement of environmental pollution or degradation including radionuclides and risks to public health related to any of the powers and duties described in this section. Any such rule may be of general application throughout the state or may be limited as to times, places, circumstances or conditions in order to make due allowance for variations therein.
- (3) The director, under the rules adopted by the board, shall have the general supervision of the promotion and protection of the environment of this state. The powers and duties of the director shall include, but not be limited to, the following:
  - (a) The issuance of licenses and permits as prescribed by law and by the rules of the board promulgated hereunder. For each air quality operating permit issued under title V of the Federal Clean Air Act and its implementing regulations, the director shall, consistent with the Federal Clean Air Act and its implementing regulations, expressly include a provision stating that compliance with the conditions of the permit shall be deemed compliance with the applicable requirements of the Federal Clean Air Act and the Title V implementing regulations. The director may develop and issue general permits covering numerous similar sources, as authorized by 40 CFR 70.6(d) as may be amended, and as appropriate.
  - (b) The enforcement of rules relating to public water supplies and to administer the drinking water loan fund pursuant to chapter 76, title 39, Idaho Code, including making loans to eligible public drinking water systems as defined in the federal safe drinking water act as amended, and to comply with all requirements of the act, 42 U.S.C. 300f, et seq. and regulations promulgated pursuant to the act. This includes, but is not limited to, the development of and implementation of a capacity development strategy to ensure public drinking water systems have the technical, managerial and financial capability to comply with the national primary drinking water regulations; and the enhancement of protection of source waters for public drinking water systems.
  - (c) The establishment of liaison with other governmental departments, agencies and boards in order to effectively assist other governmental entities with the planning for the control of or abatement of environmental pollution. All of the rules adopted by the board hereunder shall apply to state institutions.
  - (d) The supervision and administration of a system to safeguard air quality and for limiting and controlling the emission of air contaminants.
  - (e) The supervision and administration of a system to safeguard the quality of the waters of this state including, but not limited to, the enforcement of rules relating to the discharge of effluent into the waters of this state and the storage, handling and transportation of solids, liquids, and gases which may cause or contribute to water pollution. For purposes of complying with the clean water act, the director may provide an exemption from additional



reductions for those nonpoint sources that meet the applicable reductions set forth in an approved TMDL as defined in chapter 36, title 39, Idaho Code.

(f) The supervision and administration of administrative units whose responsibility shall be to assist and encourage counties, cities, other governmental units, and industries in the control of and/or abatement of environmental pollution.

(g) The administration of solid waste disposal site and design review in accordance with the provisions of chapter 74, title 39, Idaho Code, and chapter 4, title 39, Idaho Code, and in particular as follows:

(i) The issuance of a solid waste disposal site certificate in the manner provided in chapter 74, title 39, Idaho Code.

(ii) Provide review and approval regarding the design of solid waste disposal facilities and ground water monitoring systems and approval of all applications for flexible standards as provided in 40 CFR 258, in accordance with the provisions of chapter 74, title 39, Idaho Code.

(iii) Cooperating and coordinating with operational monitoring of solid waste disposal sites by district health departments pursuant to authority established in chapters 4 and 74, title 39, Idaho Code.

(iv) The authority granted to the director pursuant to provisions of this subsection shall be effective upon enactment of chapter 74, title 39, Idaho Code, by the legislature.

(v) The authority to develop and propose rules as necessary to supplement details of compliance with the solid waste facilities act and applicable federal regulations, provided that such regulations shall not conflict with the provisions of this act nor shall such regulations be more strict than the requirements established in federal law or in the solid waste facilities act.

(h) The enforcement of all laws, rules, regulations, codes and standards relating to environmental protection and health.

(i) The enhancement and protection of source waters of the state pursuant to rules of the board.

(4) The director, when so designated by the Governor, shall have the power to apply for, receive on behalf of the state, and utilize any federal aid, grants, gifts, gratuities, or moneys made available through the federal government including, but not limited to, the Federal Water Pollution Control Act, for use in or by the state of Idaho in relation to health and environmental protection.

(5) The director shall have the power to enter into and make contracts and agreements with any public agencies or municipal corporation for facilities, land, and equipment when such use will have a beneficial or recreational effect or be in the best interest in carrying out the duties imposed upon the department. The director shall also have the power to enter into contracts for the expenditure of state matching funds for local purposes. This subsection will constitute the authority for public agencies or municipal corporations to enter into such contracts and expend money for the purposes delineated in such contracts.

(6) The director is authorized to adopt an official seal to be used on appropriate occasions, in connection with the functions of the department or the board, and such seal shall be judicially noticed. Copies of any books, records, papers and other documents in the department shall be admitted in evidence equally with the originals thereof when authenticated under such seal.

### **39-106. DIRECTOR -- ADDITIONAL POWERS AND DUTIES -- TRANSFER AND CONTINUATION OF RULES AND OTHER PROCEEDINGS.**

(1) The director shall exercise the following powers and duties in addition to all other powers and duties inherent in the position:

(a) Prescribe such policies and procedures as may be necessary for the administration of the department, the conduct and duties of the employees, the orderly and efficient management of department business, and the custody, use and preservation of department records, papers, books and property belonging to the state.

(b) Employ such personnel as may be deemed necessary, prescribe their duties and fix their compensation within the limits provided by the state personnel system law.

(c) Administer oaths for all purposes required in the discharge of his duties.

(d) Prescribe the qualifications of all personnel of the department on a nonpartisan merit basis, in accordance with the Idaho personnel system law, provided, however, that the administrators in charge of any division of the department shall serve at the pleasure of the director.

(e) Create such units, sections and subdivisions as are or may be necessary for the proper and efficient functioning of the department.

(2) All books, records, papers, documents, property, real and personal, unexpended appropriations and pending business in any way pertaining to the rights, powers and duties regarding environmental protection functions vested in

the Department of Health and Welfare and its director, administered by the Division of Environmental Quality, are transferred to and vested in the department and its director. The department established by this act is empowered to acquire, by purchase or exchange, any property which in the judgment of the department is needful for the operation of the facilities and programs for which it is responsible and to dispose of, by sale or exchange, any property which in the judgment of the department is not needful for the operation of the same.

(3) All rules, standards, plans, licenses, permits, consent orders, compliance schedules, certification, and other agreements pertaining to environmental protection functions administered by the Division of Environmental Quality heretofore adopted or issued by the Department of Health and Welfare and its director are transferred to the Department of Environmental Quality and shall remain in full force and effect until superseded. The terms "department" and "director" in such documents shall mean the Department of Environmental Quality and its director, until such documents are amended.

(4) The Department of Environmental Quality and its director shall be the successor to all rights, powers and duties of the department of health and welfare and its director regarding all rulemaking proceedings, administrative proceedings, contested cases, civil actions, contracts, delegations, authorizations and other matters pertaining to environmental protection functions.

**39-609. DECLARATION OF POLICY.** The legislature hereby declares that infection with human immunodeficiency virus, the virus which causes acquired immune deficiency syndrome (AIDS), is an infectious and communicable disease that endangers the population of this state. The legislature further declares that reporting of HIV infection to public health officials is essential to enable a better understanding of the disease, the scope of exposure, the impact on the community, and the means of control and that efforts to control the disease should include public education, counseling, and voluntary testing and that restrictive enforcement measures should be used only when necessary to protect the public health. It is hereby declared to be the policy of this state that an effective program of preventing AIDS must maintain the confidentiality of patient information and restrict the use of such information solely to public health requirements. This confidentiality is essential so that infected persons are encouraged to reveal their condition to persons who have a legitimate need to know in order that they may assist the patient. Conversely, there is a need for certain individuals to know of the patient's condition so that they may be protected from the disease or protect themselves and others closely associated with them or with the patient. The legislature believes that the balancing of the need to know by certain individuals in relationship to the need to maintain confidentiality to encourage reporting is essential to control the spread of the disease. This balancing cannot be fully codified in statutory law and must be left to the judgment and discretion of public health officials. If in the judgment of public health authorities an imminent danger to the public health exists due to an individual having a disease enumerated in section 39-601, Idaho Code, public health authorities shall take such action as is authorized in this chapter and as is necessary to prevent danger to the public health. Persons who have a legitimate need to know may include health care personnel, doctors, nurses, dentists, persons providing emergency medical services, morticians, lab technicians and school authorities. This is not intended to limit the usual and customary exchange of information between health care providers.

**39-1390. REPORTS TO LAW ENFORCEMENT AGENCIES OF CERTAIN TYPES OF INJURIES.**

(1) As soon as treatment permits, any person operating a hospital or other medical treatment facility, or any physician, resident on a hospital staff, intern, physician assistant, nurse or emergency medical technician shall notify the local law enforcement agency of that jurisdiction upon the treatment of or request for treatment of a person when the reporting person has reason to believe that the person treated or requesting treatment has received:

(a) Any injury inflicted by means of a firearm; or

(b) Any injury indicating that the person may be a victim of a criminal offense.

(2) The report provided to the law enforcement agency pursuant to subsection (1) of this section shall include the name and address of the injured person, the character and extent of the person's injuries, and the medical basis for making the report.

(3) Any person operating a medical facility, or any physician, resident on a hospital staff, intern, physician assistant, nurse or emergency medical technician shall be held harmless from any civil liability for his reasonable compliance with the provisions of this section.

**39-1392a. DEFINITIONS.** The following terms shall have the following meanings when used in this section:

(1) "Emergency medical services personnel" means emergency medical services providers certified by the Department of Health and Welfare pursuant to section 56-1011 et seq., Idaho Code, and ambulance-based clinicians as defined in the rules governing emergency medical services as promulgated by the Department of Health and Welfare.

- (2) "Group medical practice" means a partnership, corporation, limited liability company, or other association formed for the purpose of offering health care services through physicians and other licensed or otherwise authorized health care providers who are partners, shareholders, members, employees, or contractors of such group medical practice.
- (3) "Health care organization" means a hospital, in-hospital medical staff committee, medical society, managed care organization, licensed emergency medical service or group medical practice.
- (4) "Hospital" means a facility in Idaho licensed under sections 39-1301 through 39-1314, Idaho Code, and defined in section 39-1301(a)(1), Idaho Code.
- (5) "In-hospital medical staff committees" means any individual doctor who is a hospital staff member, or any hospital employee, or any group of such doctors and/or hospital employees, who are duly designated a committee by hospital staff bylaws, by action of an organized hospital staff, or by action of the board of directors of a hospital, and which committee is authorized by said bylaws, staff or board of directors, to conduct research or study of hospital patient cases, or of medical questions or problems using data and information from hospital patient cases.
- (6) "Licensed emergency medical service" means an ambulance service or a non-transport service licensed by the Department of Health and Welfare pursuant to section 56-1011 et seq., Idaho Code.
- (7) "Managed care organization" means a public or private person or organization which offers a managed care plan.
- (8) "Managed care plan" means a contract of coverage given to an individual, family or group of covered individuals pursuant to which a member is entitled to receive a defined set of health care benefits through an organized system of health care providers in exchange for defined consideration and which requires the member to use, or creates financial incentives for the member to use, health care providers owned, managed, employed by or under contract with the managed care organization.
- (9) "Medical society" means any duly constituted, authorized and recognized professional society or entity made up of physicians licensed to practice medicine in Idaho, having as its purpose the maintenance of high quality in the standards of health care provided in Idaho or any region or segment of the state, operating with the approval of the Idaho state board of medicine, or any official committee appointed by the Idaho State Board of Medicine.
- (10) "Patient care records" means written or otherwise recorded, preserved and maintained records of the medical or surgical diagnostic, clinical, or therapeutic care of any patient treated by or under the direction of licensed professional personnel, including emergency medical services personnel, in every health care organization subject to this act, whether as an in-patient or out-patient of the health care organization.
- (11) "Peer review" means the collection, interpretation and analysis of data by a health care organization for the purpose of bettering the system of delivery of health care or to improve the provision of health care or to otherwise reduce patient morbidity and mortality and improve the quality of patient care. Peer review activities by a health care organization include, without limitation:
- (a) Credentialing, privileging or affiliating of health care providers as members of, or providers for, a health care organization;
  - (b) Quality assurance and improvement, patient safety investigations and analysis, patient adverse outcome reviews, and root-cause analysis and investigation activities by a health care organization; and
  - (c) Professional review action, meaning an action or recommendation of a health care organization which is taken or made in the conduct of peer review, that is based on the competence or professional conduct of an individual physician or emergency medical services personnel where such conduct adversely affects or could adversely affect the health or welfare of a patient or the physician's privileges, employment or membership in the health care organization or in the case of emergency medical services personnel, the emergency medical services personnel's scope of practice, employment or membership in the health care organization.
- (12) "Peer review records" means all evidence of interviews, reports, statements, minutes, memoranda, notes, investigative graphs and compilations and the contents thereof, and all physical materials relating to peer review of any health care organization. "Peer review records" does not mean or include patient care records; provided however, that the records relating to the identification of which particular patient care records were selected for, or reviewed, examined or discussed in peer review by a health care organization and the methodology used for selecting such records shall be considered peer review records.

**39-1392b. RECORDS CONFIDENTIAL AND PRIVILEGED.** Except as provided in section 39-1392e, Idaho Code, all peer review records shall be confidential and privileged, and shall not be directly or indirectly subject to subpoena or discovery proceedings or be admitted as evidence, nor shall testimony relating thereto be admitted in evidence, or in any action of any kind in any court or before any administrative body, agency or person for any purpose whatsoever. No order of censure, suspension or revocation of licensure, or of a certification in the case of emergency medical services personnel, or health care organization privilege of any physician licensed to practice medicine in civil relief against the physician,

10/5/04

Page 18

*The Emergency Medical Services Bureau, Department of Health and Welfare, try to ensure the accuracy and timeliness of the information contained within this document by making regular updates. There may be times between updates, however, when information is not current, and we apologize for any inconvenience this may cause. Neither the state of Idaho nor any agency, official or employee of the state can be liable for the results of any actions arising from use of this information. Official copies of the Idaho Code are published for the Idaho Code Commission by LEXIS Publishing. Official copies of Idaho's Session Laws are published for the Secretary of State by Caxton Printers.*

emergency medical services personnel, or health care organization which may be a defendant in said cause. However, this section shall not prohibit or otherwise affect the use of documents, materials or testimony in health care organization proceedings, nor shall it prohibit or otherwise affect the dissemination, for medical purposes, of information contained in such documents or materials or the conclusions and findings of such health care organization. This section shall not affect the admissibility in evidence in any action or proceeding of the patient care records of any patient.

**39-1392e. LIMITED EXCEPTIONS TO PRIVILEGE AND CONFIDENTIALITY.**

(a) In the event of a claim or civil action against a physician, emergency medical services personnel, or a hospital arising out of a particular physician-patient, emergency medical services personnel-patient, or hospital-patient relationship, or which concerns the sufficiency of the delivery of particular health care to a specific patient, any health care organization having information of the kind covered by section 39-1392b, Idaho Code, shall, when interrogated as hereinafter provided, advise any such claimant who is or was such a patient or who, in a representative capacity, acts on behalf of such patient or his heirs, as follows:

(1) Whether it has conducted or has in progress an inquiry, proceeding or disciplinary matter regarding the quality or propriety of the health care involved, which concerns the subject patient while he was under the care or responsibility of a member of such health care organization or while he was a patient in such hospital; and, if so,

(2) Whether disposition of any kind resulted or will result therefrom; and, if so,

(3) What the disposition was, or, if not yet determined, approximately when it will be determined. Such disclosure of information shall be limited to the health care organization's actions in connection with the physician, emergency medical services personnel, or hospital against whom such claim is asserted.

(b) Such a claimant shall likewise be entitled to inquire of such health care organization respecting the names and addresses of persons who such health care organization knows to have direct knowledge of the provision of the health care in question, such inquiry to be limited, however, to the particular patient and the particular times and occasions germane to the specific occurrences on which the claim is based; provided, names shall not be disclosed respecting persons who have gained secondary knowledge or formed opinions respecting the matter solely by participating as witnesses, officials, investigators or otherwise on, for, or in connection with such a health care organization committee, staff, governing board or the state board of medicine.

(c) Such limited, conditional discovery and disclosure of information as provided above shall be allowed only in response to inquiries directed to such a health care organization, and then only if initially propounded by a claimant of the type above described. If the matter is in litigation, inquiry may be by customary means of discovery under the Idaho rules of civil procedure, or, if pending in a United States court, then under discovery as allowed by its applicable rules; provided, pendency of the claim in the United States court or before any other tribunal shall not operate to broaden the exception to the rules of privilege, confidentiality and immunity set down in this act.

(d) Such disclosures may be voluntarily made without judicial order or formal discovery if all disciplined, accused or investigated physicians or emergency medical services personnel consent thereto, and if privileged or confidential information regarding any other patient, physician, emergency medical services personnel, or person will not be disclosed thereby. When the terms of this paragraph are complied with, such voluntary disclosures may be made without civil liability therefor as if in due response to valid judicial process or order.

(e) If any claimant makes such inquiry of any such health care organization, he shall be deemed to have consented to like inquiry and disclosure rights for the benefit of all parties against whom he asserts such claim or brings such suit or action, and all other persons who are parties to such action, and thereafter all such persons and parties may invoke the provisions of this section, seeking and securing specific information as herein provided for the benefit of such claimant, to the same extent as the same is allowed to such claimant.

(f) If any physician, emergency medical services personnel, patient, person, organization or entity whose conduct, care, chart, behavior, health or standards of ethics or professional practice is the subject of investigation, comment, testimony, dispositive order of any kind or other written or verbal utterance or publication or act of any such health care organization or any member or committee thereof in the course of research, study, disciplinary proceeding or investigation of the sort contemplated by this act, makes claim or brings suit on account of such health care organization activity, then, in the defense thereof, confidentiality and privilege shall be deemed waived by the making of such claim, and such health care organization and the members of their staffs and committees shall be allowed to use and resort to such otherwise protected information for the purpose of presenting proof of the facts surrounding such matter, and this provision shall apply whether such claim be for equitable or legal relief or for intentional or unintentional tort of any kind and whether pressed by a patient, physician, emergency medical services personnel, or any other person, but such waiver shall only be effective in connection with the disposition or litigation of such claim, and the court shall, in its

discretion, enter appropriate orders protecting, and as fully as it reasonably can do so, preserving the confidentiality of such materials and information.

**39-1393. NOTIFICATION OF PROFESSIONAL REVIEW ACTION IMPOSED UPON PHYSICIAN OR EMERGENCY MEDICAL SERVICES PERSONNEL.**

- (1) Any health care organization in this state that is by law required to conduct peer review or which voluntarily formally elects to conduct professional review actions shall notify the board of medicine of professional review actions taken against physicians licensed in Idaho required to be reported as provided in this section. Such reports shall be made to the board of medicine within fifteen (15) days of completion of the professional review action by the health care organization. For emergency medical services personnel, such reports shall be made to the department of health and welfare within fifteen (15) days of completion of the professional review action by the health care organization. Such required reports shall be made on forms approved by the board of medicine for reports concerning physicians, or the department of health and welfare for reports concerning emergency medical services personnel, consistent with the reporting requirements of this section. The reporting obligation shall not be stayed by the filing of any court proceeding unless otherwise ordered by the court.
- (2) A health care organization in Idaho shall report to the board of medicine if it:
  - (a) Takes a professional review action against a physician licensed in Idaho and imposes a sanction of the type included in subsection (3) of this section which lasts longer than thirty (30) days; or
  - (b) Accepts a voluntary sanction by a physician licensed in Idaho of the type identified in subsection (3) of this section while the physician is under investigation or to avoid investigation by the health care organization relating to the professional competence or professional conduct of the physician or in exchange for the health care organization not conducting such an investigation or initiating a professional review action, if the sanction lasts longer than thirty (30) days.
- (3) Professional review action sanctions against a physician which must be reported to the board of medicine pursuant to subsection (2) of this section, whether voluntary or involuntary, shall be:
  - (a) Restriction or limitation of privileges;
  - (b) Revocation of privileges;
  - (c) Suspension of privileges;
  - (d) Reduction of privileges;
  - (e) Denial of a request for initial privileges;
  - (f) Submission to monitoring of the physician's physical or mental condition;
  - (g) Submission to monitoring of the physician's delivery of medical services other than to assess and monitor the physician's qualifications for new or additional privileges;
  - (h) Surrender of privileges;
  - (i) Summary suspension or reduction of privileges lasting longer than thirty (30) days;
  - (j) Termination of employment;
  - (k) Suspension of employment lasting longer than thirty (30) days.
- (4) The reporting requirements of this section shall not apply to:
  - (a) Actions based on compliance with medical records or confidentiality requirements of a health care organization;
  - (b) Voluntary requests for assistance or monitoring by a physician as part of an educational process to improve physician skills or enhance patient care when unrelated to a professional review action concerning the quality or necessity of patient medical care;
  - (c) Voluntary or involuntary revocation, nonrenewal, denial, reduction, restriction, resignation, or limitation of privileges or employment of a physician based upon factors not directly impacting the quality of patient care or safety of practice of the physician;
  - (d) Adverse actions taken against a physician by a health care organization that is not required by law to conduct peer review and that has not voluntarily formally elected to conduct professional review actions; and
  - (e) The denial of a physician's request for additional privileges or credentials with a health care organization.
- (5) The report to the board of medicine required by this section shall include a statement of the quality of care concerns or professional conduct that is the basis of the professional review action or investigation and the reportable professional review action sanction voluntarily accepted or involuntarily imposed.
- (6) A health care organization required to report a professional review action concerning a physician to the board of medicine pursuant to this section shall, if requested by the board of medicine, provide to the board the following:
  - (a) A statement of the specific quality of care concerns or professional conduct which resulted in the professional review action sanction;

- (b) A statement of the specific professional review action sanction; and
  - (c) Any patient care records of the health care organization regarding the care provided by the reported physician. However, the board of medicine may not request or require production of any peer review records from any person or health care organization, including the identification of which particular patient care records were selected for, or reviewed, examined or discussed in any peer review activity of a health care organization, or the method used by the health care organization to select such patient care records for peer review.
- (7) The records lawfully requested by the board of medicine pursuant to subsection (6) of this section shall be provided by the health care organization without a subpoena or court order. If the health care organization fails to comply with the board of medicine's lawful request, the board may petition the district court for an order compelling compliance with the board's request, which shall be granted if disclosure is required by law.
- (8) Professional review action sanctions against emergency medical services personnel, whether voluntary or involuntary, which are the result of any action, conduct, or failure to act which is inconsistent with the professionalism and/or standards established in the rules governing emergency medical services personnel as promulgated by the department of health and welfare must be reported to the department of health and welfare.
- (9) The report to the department of health and welfare required by this section shall include a statement of the quality of care concerns or professional conduct that is the basis of the professional review action or investigation and the reportable professional review action sanction voluntarily accepted or involuntarily imposed.
- (10) Any person or health care organization that provides notification as required by law, or in a good faith belief that such notification is required by law, shall be immune from any civil or other liability arising from providing the notification. Such immunity shall likewise pertain to the provision of files, records and information a health care organization may in good faith provide to the board of medicine pursuant to this section or other applicable law. Such materials provided to the board of medicine shall be subject to disclosure by the board according to chapter 3, title 9, Idaho Code, and available only to the board of medicine and its staff unless and until such matter becomes the subject of formal proceedings by or before the board of medicine or authorized by it.

### **39-3406. ROUTINE REFERRAL AND REQUIRED REQUEST -- SEARCH AND NOTIFICATION.**

- (1) At or near the time of a patient's death, the administrator of the hospital where the patient is being treated, or a representative designated by such administrator, shall:
- (a) Notify the appropriate organ procurement organization of the imminent or actual death of the patient;
  - (b) In the absence of a document of gift or other evidence of an individual's intention to make or refuse to make an anatomical gift, and in collaboration with the organ procurement organization and/or procurement entity, ensure that available persons listed as having priority in section 39-3404, Idaho Code, are informed of the option to make or refuse to make an anatomical gift in accordance with section 39-3404, Idaho Code, with reasonable discretion and sensitivity appropriate to the circumstances of the family;
  - (c) Obtain the signature of the person having the highest priority of the available persons listed in section 39-3404, Idaho Code, as having priority, signifying whether such person consents or refuses to consent to the making of an anatomical gift on behalf of the patient; and
  - (d) Enter into the medical records of the patient the name and affiliation of the individual making the request and the name, response and relationship to the patient of the person to whom the request was made.
- (2) For purposes of this section, the individual designated by the hospital to initiate the request to the family must be an organ procurement representative or an individual who has completed a course offered or approved by an organ procurement organization and designed in conjunction with tissue and eye bank organizations to address methods for approaching potential donor families.
- (3) A procurement organization or procurement entity making a request pursuant to the provisions of this section shall maintain in its patient records a written record of the name and affiliation of the individual making the request and the name, response and relationship to the patient of the person to whom the request was made.
- (4) A law enforcement officer, firefighter, paramedic, emergency medical services provider or other emergency rescuer finding an individual who the searcher believes is dead or near death, and a hospital, upon the admission of an individual at or near the time of death, shall:
- (a) Make a reasonable search for a document of gift or other information identifying whether the individual has made or refused to make an anatomical gift; and
  - (b) If a document of gift or evidence of refusal to make an anatomical gift is located by the search required by paragraph (4)(a) of this subsection, and the individual or body to whom it relates is taken to a hospital, notify the hospital of the contents and send the document or other evidence to the hospital.

- (5) A person who fails to discharge the duties imposed by this section is not subject to criminal or civil liability but is subject to appropriate administrative sanctions.

**39-4301. PURPOSE.** The primary purposes of this act are

- (1) to provide and codify Idaho law concerning consent for the furnishing of hospital, medical, dental or surgical care, treatment or procedures and concerning what constitutes an informed consent for such care, treatment or procedures and
- (2) to provide certainty and clarity in the law of medical consent in the furtherance of high standards of health care and its ready availability in proper cases. However, nothing in this act shall be deemed to amend or repeal the provisions of chapter 3, title 66, Idaho Code, as the same pertain to medical attendance upon or hospitalization of the mentally ill, nor the provisions of chapter 6, title 18, Idaho Code, pertaining to provision of examinations, prescriptions, devices and informational materials regarding prevention of pregnancy or pertaining to therapeutic abortions and consent to the performance thereof. Nothing in this act shall be construed to permit or require the provision of health care for a patient in contravention of his stated or implied objection thereto upon religious grounds nor shall anything in this act be construed to require the granting of permission for or on behalf of any patient not able to act for himself by his parent, spouse or guardian in violation of the religious beliefs of the patient and/or the parent or spouse.

**39-4302. PERSONS WHO MAY CONSENT TO THEIR OWN CARE.** Any person of ordinary intelligence and awareness sufficient for him or her generally to comprehend the need for, the nature of and the significant risks ordinarily inherent in any contemplated hospital, medical, dental or surgical care, treatment or procedure is competent to consent thereto on his own behalf. Any physician, dentist, hospital or other duly authorized person may provide such health care and services in reliance upon such a consent if the consenting person appears to the physician or dentist securing the consent to possess such requisite intelligence and awareness at the time of giving it.

**39-4303. PERSONS WHO MAY GIVE CONSENT TO CARE FOR OTHERS.**

- (a) Parent, Spouse or Guardian. Consent for the furnishing of hospital, medical, dental or surgical care, treatment or procedures to any person who is not then capable of giving such consent as provided in this act or who is a minor or incompetent person, may be given or refused by any competent parent, spouse, or legal guardian of such person unless the patient is a competent adult who has refused to give such consent.
- (b) Competent Relative or Other Person. If no parent, spouse or legal guardian is readily available to do so, then consent may be given by any competent relative representing himself or herself to be an appropriate, responsible person to act under the circumstances; and, in the case of a never married minor or mentally incompetent person, by any other competent individual representing himself or herself to be responsible for the health care of such person, provided, however, that this subsection shall not be deemed to authorize any person to override the express refusal by a competent adult patient to give such consent himself.
- (c) Attending Physician or Dentist. Whenever there is no person readily available and willing to give or refuse consent as specified hereinabove in this act, and in the judgment of the attending physician or dentist the subject person presents a medical emergency or there is substantial likelihood of his or her life or health being seriously endangered by withholding or delay in the rendering of such hospital, medical, dental or surgical care to such patient, the attending physician or dentist may, in his discretion, authorize and/or provide such care, treatment or procedure as he or she deems appropriate, and all persons, agencies and institutions thereafter furnishing the same, including such physician or dentist, may proceed as if informed, valid consent therefore had been otherwise duly given.
- (d) Immunity from Liability. No person who, in good faith, gives consent or authorization for the provision of hospital, medical, dental or surgical care, treatment or procedures to another as provided by this act shall be subject to civil liability therefore.

**39-4303A. BLOOD TESTING.**

- (a) A physician may pursuant to section 39-4303(c), Idaho Code, consent to ordering tests of a patient's or a deceased person's blood or other body fluids for the presence of blood-transmitted or body fluid-transmitted viruses or diseases without prior consent of the patient if:
  - (1) There has been or is likely to be a significant exposure to the patient's or a deceased person's blood or body fluids by a person providing emergency or medical services to such patient which may result in the transmittal of a virus or disease; and
  - (2) The patient is unconscious or incapable of giving informed consent and the physician is unable to obtain consent from the patient's parents, spouse, guardian or competent relative under the requirements of subsections (a) and (b) of section 39-4303, Idaho Code.

- (b) The department of health and welfare shall promulgate rules and regulations identifying the blood-transmitted or body fluid-transmitted viruses or diseases for which blood tests or body fluid tests can be ordered under this section and defining the term "significant exposure" as provided in this section.
- (c) Results of tests conducted under this section which confirm the presence of a blood-transmitted or body fluid-transmitted virus or disease shall be reported to the director of the Department of Health and Welfare in the name of the patient or deceased person. The department records containing such test results shall be used only by public health officials who must conduct investigations. The exposed person shall only be informed of the results of the test, and shall not be informed of the name of the patient or deceased person. Protocols shall be established by hospitals to maintain confidentiality while disseminating the necessary test result information to persons who may have a significant exposure to blood or other body fluids and to maintain records of such tests to preserve the confidentiality of the test results. Any person who willfully or maliciously discloses the results of a test conducted under this section, except pursuant to a written authorization by the person whose blood was tested or by the person's authorized representative, or as otherwise authorized by law, shall be guilty of a misdemeanor.

### **39-7105. LOCAL EMERGENCY RESPONSE AUTHORITIES -- DESIGNATION.**

- (1) It is the purpose of the provisions of this section to provide for the designation of local emergency response authorities for hazardous substance incidents.
- (2) Cities and counties shall designate the local emergency response authorities for hazardous substance incidents that occur within their respective jurisdictions. Cities and counties are encouraged to appoint a response authority whose members will become trained in hazardous substance incident response.
  - (a) The governing body of every city shall designate by ordinance or resolution a local emergency response authority for hazardous substance incidents occurring within the corporate limits of such city. A city may designate the county as its emergency response authority and participate in the county plan for hazardous substance incident response, and shall notify the county of that designation in writing.
  - (b) The board of county commissioners of every county in the state shall designate by ordinance or resolution a local emergency response authority for hazardous substance incidents occurring within the unincorporated area of such county.
  - (c) The governing body of every city and every board of county commissioners shall notify the military division and Idaho Emergency Medical Services Communications Center of its designated local emergency response authority. Such notification shall be in writing and shall occur as soon as practicable, and, in any event, no later than sixty (60) calendar days after this chapter becomes effective. Thereafter, any changes in such designations shall be communicated to the military division and Idaho Emergency Medical Services Communications Center no later than ten (10) working days before such change becomes effective.
  - (d) If no local emergency response authority having the ability to respond to a hazardous substance incident exists within a city or county or if such a political subdivision is unable to obtain the services of an emergency response authority by way of a mutual aid agreement, contract or otherwise, such city or county may petition the military division to designate an emergency response authority to respond to hazardous substance incidents within the petitioning political subdivision's jurisdiction. The military division, in consultation with such political subdivision, may thereafter designate appropriate local emergency response authorities.
- (3) If a hazardous substance incident occurs in an area in which no local emergency response authority has been designated, or if the Idaho State Police has been designated as the local emergency response authority, the Idaho State Police shall be the local emergency response authority for such hazardous substance incident for the purposes of this section.

**[39-8201] 39-8101. TITLE.** This chapter shall be known as the "Idaho Safe Haven Act."

**[39-8202] 39-8102. DEFINITIONS.** As used in this chapter, the following terms shall mean:

- (1) "Custodial parent," for the purposes of this chapter, means, in the absence of a court decree, the parent with whom the child resides.
- (2) "Safe haven" means:
  - (a) Hospitals licensed in the state of Idaho;
  - (b) Licensed physicians in the state of Idaho and staff working at their offices and clinics;
  - (c) Advanced practice professional nurses including certified nurse-midwives, clinical nurse specialists, nurse practitioners and certified registered nurse anesthetists licensed or registered pursuant to chapter 14, title 54, Idaho Code;



- (d) Physician assistants licensed pursuant to chapter 18, title 54, Idaho Code.
- (e) Medical personnel when making an emergency response to a "911" call from a custodial parent, for the purpose of taking temporary physical custody of a child pursuant to the provisions of this act. For purposes of this act, "medical personnel" shall include those individuals certified by the Department of Health and Welfare as:
  - (i) First responders;
  - (ii) Emergency medical technicians - basic;
  - (iii) Advanced emergency medical technicians - ambulance;
  - (iv) Emergency medical technicians - intermediate; and
  - (v) Emergency medical technicians - paramedic.

**[39-8203] 39-8103. EMERGENCY CUSTODY OF CERTAIN ABANDONED CHILDREN -- CONFIDENTIALITY -- IMMUNITY.**

- (1) A safe haven shall take temporary physical custody of a child, without court order, if the child is personally delivered to a safe haven, provided that:
  - (a) The child is no more than thirty (30) days of age;
  - (b) The custodial parent delivers the child to the safe haven; and
  - (c) The custodial parent does not express an intent to return for the child.
- (2) If a safe haven takes temporary physical custody of a child pursuant to subsection (1) of this section, the safe haven shall:
  - (a) Perform any act necessary, in accordance with generally accepted standards of professional practice, to protect, preserve, or aid the physical health and safety of the child during the temporary physical custody including, but not limited to, delivering the child to a hospital for care or treatment; and
  - (b) Immediately notify a peace officer or other person appointed by the court of the abandonment.
- (3) The safe haven shall not inquire as to the identity of the custodial parent and, if the identity of a parent is known to the safe haven, the safe haven shall keep all information as to the identity confidential. The custodial parent leaving the child shall not be required to provide any information to the safe haven but may voluntarily provide information including, but not limited to, medical history of the parent(s) or the child.
- (4) A safe haven with responsibility for performing duties under this section, and any employee, doctor, or other personnel working at the safe haven, are immune from any civil or criminal liability that otherwise might result from their actions, if they are acting in good faith in receiving a child and performing duties under this section.
- (5) A custodial parent may leave a child with a safe haven in this state without being subjected to prosecution for abandonment pursuant to the provisions of title 18, Idaho Code, provided that the child was no more than thirty (30) days of age when it was left at the safe haven, as determined within a reasonable degree of medical certainty.

**[39-8204] 39-8104. PROTECTIVE CUSTODY -- PLACEMENT -- IMMUNITY.**

- (1) Upon notification by a safe haven that a child has been abandoned pursuant to the provisions of this chapter, a peace officer or other person appointed by the court shall take protective custody of the child and shall immediately deliver the child to the care, control and custody of the Department of Health and Welfare. Provided however, where the child requires further medical evaluation, care or treatment, the child shall be left in the care of a hospital and the peace officer or other person appointed by the court shall notify the court and prosecutor of the action taken and the location of the child so that a shelter care hearing may be held.
- (2) The Department of Health and Welfare shall place an abandoned child with a potential adoptive parent as soon as possible.
- (3) A peace officer or other person appointed by the court who takes a child into custody under this section, shall not be held liable either criminally or civilly unless the action of taking the child was exercised in bad faith or in violation of the provisions of this chapter.

**TITLE 46 MILITIA AND MILITARY AFFAIRS**

**46-1003. POLICY AND PURPOSES.** It is the policy of this state to plan and prepare for disasters and emergencies resulting from natural or man-made causes, enemy attack, terrorism, sabotage or other hostile action, and to implement this policy, it is found necessary:

- (1) To create a Bureau of Homeland Security, to authorize the creation of local organizations for disaster preparedness in the political subdivisions of the state, and to authorize the state and political subdivisions to execute agreements and to cooperate with the federal government and the governments of other states.

- (2) To prevent and reduce damage, injury, and loss of life and property resulting from natural or man-made catastrophes, riots, or hostile military or paramilitary action.
- (3) To prepare assistance for prompt and efficient search, rescue, care, and treatment of persons injured, victimized or threatened by disaster.
- (4) To provide for rapid and orderly restoration and rehabilitation of persons and property affected by disasters.
- (5) To prescribe the roles of the governor, state agencies, and local governments in prevention of, preparation for, response to and recovery from disasters.
- (6) To authorize and encourage cooperation in disaster prevention, preparedness, response and recovery.
- (7) To provide for coordination of activities relating to disaster prevention, preparedness, response, and recovery by all state agencies, political subdivisions, and interstate, federal-state and Canadian activities in which the state and its political subdivisions may participate.
- (8) To provide a disaster management system embodying all aspects of predisaster preparedness and postdisaster response.
- (9) To provide for the payment of obligations and expenses incurred by the state of Idaho through the bureau of homeland security during a declared state of disaster emergency.

**46-1007. LIMITATIONS.** Nothing in this act shall be construed to:

- (1) Interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this act or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;
- (2) Interfere with dissemination of news or comment on public affairs;
- (3) Affect the jurisdiction or responsibilities of police forces, fire fighting forces, local emergency medical service (EMS) agencies licensed by the state Department of Health and Welfare EMS bureau, units of the armed forces of the United States, or of any personnel thereof, when on active duty; but state, local, and intergovernmental disaster emergency plans shall place reliance upon the forces available for performance of functions related to disaster emergencies; or
- (4) Limit, modify, or abridge the authority of the governor to proclaim martial law or exercise any other powers vested in him under the constitution or statutes of this state independent of or in conjunction with any provisions of this act.

**46-1009. LOCAL AND INTERGOVERNMENTAL DISASTER AGENCIES AND SERVICES.**

- (1) Each county within this state shall be within the jurisdiction of and served by the bureau and by a county or intergovernmental agency responsible for disaster preparedness and coordination of response.
- (2) Each county shall maintain a disaster agency or participate in an intergovernmental disaster agency which, except as otherwise provided under this act, has jurisdiction over and serves the entire county, or shall have a liaison officer appointed by the county commissioners designated to facilitate the cooperation and protection of that subdivision in the work of disaster prevention, preparedness, response and recovery.
- (3) The chairman of the board of county commissioners of each county in the state shall notify the bureau of the manner in which the county is providing or securing disaster planning and emergency services. The chairman shall identify the person who heads the agency or acts in the capacity of liaison from which the service is obtained, and furnish additional information relating thereto as the bureau requires.
- (4) Each county and/or intergovernmental agency shall prepare and keep current a local or intergovernmental disaster emergency plan for its area.
- (5) The county or intergovernmental disaster agency, as the case may be, shall prepare and distribute to all appropriate officials in written form a clear and complete statement of the emergency responsibilities of all local agencies and officials and of the disaster chain of command.
- (6) Except as provided in subsections (7), (8), (9) and (10) of this section, the sheriff of each county shall:
  - (a) be the official responsible for command of all search and rescue operations within his jurisdiction;
  - (b) prepare and keep current a plan to command the search and rescue capability and resources available within the county.
- (7) Pursuant to chapter 1, title 21, Idaho Code, subsection (6) of this section shall not apply to all aerial activity related to the search for lost aircraft and airmen which shall be under the direction and supervision of the director of the Idaho transportation department and coordinated with the division of aeronautics.
- (8) Nothing in subsection (6) of this section shall apply to search and rescue operations within the incorporated limits of any city.

- (9) Nothing in subsection (6) of this section shall apply to the rescue of entrapped or injured persons where their location is known to be within a fire district, where the fire district performs such service.
- (10) Nothing contained in subsection (6) of this section shall apply to the removal of entrapped or injured persons where the person's location is known to a local EMS agency licensed by the state of Idaho.

#### **46-1010. INTERGOVERNMENTAL ARRANGEMENTS.**

- (1) The governor may enter into interstate emergency or disaster service compacts with any state if he finds that joint action with the state is desirable in meeting common intergovernmental problems of emergency or disaster planning, prevention, response, and recovery.
- (2) Nothing in subsection (1) hereof shall be construed to limit previous or future entry into the interstate civil defense and disaster compact of this state with other states.
- (3) If any person holds a license, certificate, or other permit issued by any state or political subdivision thereof evidencing the meeting of qualifications for professional, mechanical, or other skills, the person may render aid involving that skill in this state to meet an emergency or disaster proclaimed by the governor, and this state shall give due recognition to the license, certificate, or other permit.
- (4) All interstate mutual aid compacts and other interstate agreements dealing with disaster and emergency services shall be reviewed and updated at intervals not to exceed four (4) years.
- (5) When considered of mutual benefit, the governor may, subject to limitations of law, enter into intergovernmental arrangements with neighboring provinces of Canada for the purpose of exchanging disaster and emergency services.
- (6) Pursuant to an interstate agreement, personnel working for the state, its political subdivisions, municipal or public corporations, and other public agencies, may work outside the state to aid in disaster and emergency relief work; or equipment belonging to the state, its political subdivisions, municipal or public corporations, and other public agencies may be used outside the state to aid in disaster and emergency relief work. When state or local highway equipment or personnel are used in disaster relief work outside the state, arrangements shall be made, as necessary, to reimburse the state, its political subdivisions, municipal or public corporations, and other public agencies, for such work or equipment to comply with section 17, article 7 of the Idaho constitution, which provides that gasoline taxes and motor vehicle funds shall be used exclusively for the public highways of the state.

**46-1018. INTERSTATE MUTUAL AID COMPACT.** The state of Idaho hereby enacts into law and enters into the interstate mutual aid compact with those states who agree and enact the interstate mutual aid compact in accordance with the terms of the compact, which compact is substantially as follows:

#### **INTERSTATE MUTUAL AID COMPACT**

##### **Article I**

The purpose of this compact is to provide voluntary assistance among participating states in responding to any disaster or imminent disaster that overextends the ability of local and state governments to reduce, counteract, or remove the danger. Assistance may include but is not limited to rescue, fire, police, medical, communication, and transportation services and facilities to cope with problems which require use of special equipment, trained personnel, or personnel in large numbers not locally available.

##### **Article II**

Article I, Section 10, of the Constitution of the United States permits a state to enter into an agreement or compact with another state, subject to the consent of Congress. Congress, through enactment of 50 U.S.C. 2281(g) and 2283 and the executive branch, by issuance of Executive Order No. 10186 of December 1, 1950, encourages the states to enter into emergency, disaster, and civil defense mutual aid agreements or pacts.

##### **Article III**

It is agreed by participating states that the following conditions will guide implementation of the compact:

- (1) Participating states through their designated officials are authorized to request and receive assistance from a participating state. Requests will be granted only if the requesting state is committed to the mitigation of the emergency and other resources are not immediately available.
- (2) Requests for assistance may be verbal or in writing. If the request is made by other than written communication, it must be confirmed in writing as soon as practical after the request. A written request shall provide an itemization of equipment and operators, types of expertise, and personnel or other resources needed. Each request must be signed by an authorized official.
- (3) Personnel and equipment of the aiding state made available to the requesting state shall, whenever possible, remain under the control and direction of the aiding state. The activities of personnel and equipment of the aiding state must be coordinated by the requesting state.

(4) An aiding state has the right to withdraw some or all of its personnel and equipment whenever the personnel and equipment are needed by that state. Notice of intention to withdraw should be communicated to the requesting state as soon as possible.

#### Article IV

(1) The requesting state shall reimburse the aiding state as soon as possible after the receipt by the requesting state of an itemized voucher requesting reimbursement of costs.

(2) Any state rendering aid pursuant to this compact must be reimbursed by the state receiving such aid for any damage to, loss of, or expense incurred in the operation of any equipment used in responding to a request for aid, and for the cost incurred in connection with such requests.

(3) Any state rendering aid pursuant to this compact must be reimbursed by the state receiving such aid for the cost of compensation and death benefits to injured officers, agents, or employees and their dependents or representatives if such officers, agents, or employees sustain injuries or are killed while rendering aid pursuant to this arrangement and such payments are made in the same manner and on the same terms as if the injury or death were sustained within the aiding state.

#### Article V

(1) All privileges and immunities from liability, exemptions from law, ordinances, and rules and all pension, disability relief, workers' compensation, and other benefits that apply to the activity of officers, agents, or employees when performing their respective functions within the territorial limits of their respective political subdivisions apply to them to the same extent while engaged in the performance of any of their functions and duties extraterritorially under the provisions of this compact.

(2) All privileges and immunities from liability, exemptions from law, ordinances, and rules and workers' compensation and other benefits that apply to duly enrolled or registered volunteers when performing their respective functions at the request of their state and within its territorial limits apply to the same extent while performing their functions extraterritorially under the provisions of this compact. Volunteers may include but are not limited to physicians, surgeons, nurses, dentists, structural engineers, and trained search and rescue volunteers.

(3) The signatory states, their political subdivisions, municipal or public corporations, and other public agencies shall hold harmless the corresponding entities and personnel thereof from the other states with respect to the acts and omissions of its own agents and employees that occur while providing assistance pursuant to the common plan.

(4) Nothing of this arrangement may be construed as repealing or impairing any existing interstate mutual aid agreements.

(5) Upon enactment of this compact by two (2) or more states, and annually by each January 1 thereafter, the participating states will exchange with each other the names of officials designated to request and provide services under this arrangement. In accordance with the cooperative nature of this arrangement, it is permissible and desirable for the states to exchange operational procedures to be followed in requesting assistance and reimbursing expenses.

(6) This compact becomes effective and is binding upon the states so acting when it has been enacted into law by any two (2) states. Thereafter, this compact becomes effective and binding as to any other state upon similar action by such state.

(7) This compact remains binding upon a party state until it enacts a law repealing the compact and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal may not take effect until the 30th consecutive day after the notice has been sent. Such withdrawal does not relieve the withdrawing state from its obligations assumed under this compact prior to the effective date of withdrawal.

**46-1018A. EMERGENCY MANAGEMENT ASSISTANCE COMPACT.** The legislature of the state of Idaho hereby authorizes the governor of the state of Idaho to enter into a compact on behalf of the state of Idaho with any other state legally joining therein, in the form substantially as follows:

### EMERGENCY MANAGEMENT ASSISTANCE COMPACT

#### ARTICLE I

##### PURPOSES AND AUTHORITIES

(1) This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this agreement, the term "states" is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all United States territorial possessions.

(2) The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the governor of the affected state(s), whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

(3) This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' national guard forces, either in accordance with the national guard mutual assistance compact or by mutual agreement between states.

## ARTICLE II GENERAL IMPLEMENTATION

(1) Each party state entering into this compact recognizes many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

(2) The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

(3) On behalf of the governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

## ARTICLE III PARTY STATE RESPONSIBILITIES

(1) It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

(a) Review individual state hazards analysis and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resource shortages, civil disorders, insurgency or enemy attack.

(b) Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency.

(c) Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans.

(d) Assist in warning communities adjacent to or crossing the state boundaries.

(e) Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material.

(f) Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness.

(g) Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

(2) The authorized representative of a party state may request assistance of another party state by contacting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty (30) days of the verbal request. Requests shall provide the following information:

(a) A description of the emergency service function for which assistance is needed, including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.

(b) The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed.

- (c) The specific place and time for staging of the assisting party's response and a point of contact at that location.
- (3) There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States government, with free exchange of information, plans, and resource records relating to emergency capabilities.

#### ARTICLE IV LIMITATIONS

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state. Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving state), duties, rights, and privileges as are afforded forces of the states in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency service authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the governor of the party state that is to receive assistance or upon commencement of exercises or training of mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

#### ARTICLE V LICENSES AND PERMITS

Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the governor of the requesting state may prescribe by executive order or otherwise.

#### ARTICLE VI LIABILITY

Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence or recklessness.

#### ARTICLE VII SUPPLEMENTARY AGREEMENTS

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two (2) or more states may differ from that among the states that are party hereto, this compact contains elements of a broad base common to all states, and nothing herein contained shall preclude any state from entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

#### ARTICLE VIII COMPENSATION

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

#### ARTICLE IX REIMBURSEMENT

10/5/04

Page 29

*The Emergency Medical Services Bureau, Department of Health and Welfare, try to ensure the accuracy and timeliness of the information contained within this document by making regular updates. There may be times between updates, however, when information is not current, and we apologize for any inconvenience this may cause. Neither the state of Idaho nor any agency, official or employee of the state can be liable for the results of any actions arising from use of this information. Official copies of the Idaho Code are published for the Idaho Code Commission by LEXIS Publishing. Official copies of Idaho's Session Laws are published for the Secretary of State by Caxton Printers.*

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provisions of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two (2) or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this provision.

## ARTICLE X EVACUATION

Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

## ARTICLE XI IMPLEMENTATION

- (1) This compact shall become operative immediately upon its enactment into law by any two (2) states; thereafter this compact shall become effective as to any other state upon its enactment by such state.
- (2) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty (30) days after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.
- (3) Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the federal emergency management agency and other appropriate agencies of the United States government.

## ARTICLE XII VALIDITY

This compact shall be construed to effectuate the purposes stated in Article I hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the compact and the applicability thereof to other persons and circumstances shall not be affected thereby.

## ARTICLE XIII ADDITIONAL PROVISIONS

Nothing in this compact shall authorize or permit the use of military force by the national guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the army or the air force would in the absence of express statutory authorization be prohibited under section 1385 of title 18, United States Code.

## TITLE 49 MOTOR VEHICLES

### 49-123. DEFINITIONS -- V.

- (1) "Variable load suspension axle" means an axle or axles designed to support a part of the vehicle and load and which can be regulated to vary the amount of load supported by such an axle or axles and which can be deployed or lifted by the operator of the vehicle. See also section 49-117, Idaho Code.

- (a) "Fully raised" means that the variable load suspension axle is in an elevated position preventing the tires on such axle from having any contact with the roadway.
- (b) "Fully deployed" means that the variable load suspension axle is supporting a portion of the weight of the loaded vehicle as controlled by the preset pressure regulator valve.
- (2) "Vehicle" means:
  - (a) General. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.
  - (b) Authorized emergency vehicle. Vehicles operated by any fire department or law enforcement agency of the state of Idaho or any political subdivision of the state, ambulances, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho Department of Health and Welfare while in the performance of emergency medical services, sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, wreckers which are engaged in motor vehicle recovery operations and are blocking part or all of one (1) or more lanes of traffic, other emergency vehicles designated by the director of the Idaho state police or vehicles authorized by the Idaho transportation board and used in the enforcement of laws specified in section 40-510, Idaho Code, pertaining to vehicles of ten thousand (10,000) pounds or greater.
  - (c) Commercial vehicle or commercial motor vehicle. For the purposes of chapter 3 of this title, (driver's licenses), a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:
    - 1. Has a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds inclusive of a towed unit with a manufacturer's gross vehicle weight rating (GVWR) of more than ten thousand (10,000) pounds; or
    - 2. Has a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds; or
    - 3. Is designed to transport sixteen (16) or more people, including the driver; or
    - 4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the hazardous material transportation act and which require the motor vehicle to be placarded under the hazardous materials regulations (49 CFR part 172, subpart F).

For the purposes of chapter 4, title 49, Idaho Code, (motor vehicle registration), a vehicle or combination of vehicles of a type used or maintained for the transportation of persons for hire, compensation or profit, or the transportation of property for the owner of the vehicle, or for hire, compensation, or profit, and shall include fixed load specially constructed vehicles exceeding the limits imposed by chapter 10, title 49, Idaho Code, and including drilling rigs, construction, drilling and wrecker cranes, log jammers, log loaders, and similar vehicles which are normally operated in an overweight or oversize condition or both, but shall not include those vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code, or exempted by section 49-426, Idaho Code. A motor vehicle used in a ridesharing arrangement that has a seating capacity for not more than fifteen (15) persons, including the driver, shall not be a "commercial vehicle" under the provisions of this title relating to equipment requirements, rules of the road, or registration.

- (d) Farm vehicle. A vehicle or combination of vehicles owned by a farmer or rancher, which are operated over public highways, and used exclusively to transport unprocessed agricultural, dairy or livestock products raised, owned and grown by the owner of the vehicle to market or place of storage; and shall include the transportation by the farmer or rancher of any equipment, supplies or products purchased by that farmer or rancher for his own use, and used in the farming or ranching operation or used by a farmer partly in transporting agricultural products or livestock from the farm of another farmer that were originally grown or raised on the farm, or when used partly in transporting agricultural supplies, equipment, materials or livestock to the farm of another farmer for use or consumption on the farm but not transported for hire, and shall not include vehicles of husbandry or vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code.
- (e) Foreign vehicle. Every vehicle of a type required to be registered under the provisions of this title brought into this state from another state, territory or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.
- (f) Glider kit vehicle. Every large truck manufactured from a kit manufactured by a manufacturer of large trucks which consists of a frame, cab complete with wiring, instruments, fenders and hood and front axles and wheels. The "glider kit" is made into a complete assembly by the addition of the engine, transmission, rear axles, wheels and tires.



(g) Motor vehicle. Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power, electric personal assistive mobility devices and motorized wheelchairs.

(h) Multipurpose passenger vehicle (MPV). For the purposes of section 49-966, Idaho Code, a motor vehicle designed to carry ten (10) or fewer persons which is constructed either on a truck chassis or with special features for occasional off-road operation.

(i) Noncommercial vehicle. For the purposes of chapter 4, title 49, Idaho Code, (motor vehicle registration), a noncommercial vehicle shall not include those vehicles required to be registered under sections 49-402 and 49-402A, Idaho Code, and means all other vehicles or combinations of vehicles which are not commercial vehicles or farm vehicles, but shall include motor homes. A noncommercial vehicle shall include those vehicles having a combined gross weight not in excess of sixty thousand (60,000) pounds and not held out for hire, used for purposes related to private use and not used in the furtherance of a business or occupation for compensation or profit or for transporting goods for other than the owner.

(j) Passenger car. For the purposes of section 49-966, Idaho Code, a motor vehicle, except a multipurpose passenger vehicle, motorcycle or trailer, designed to carry ten (10) or fewer persons.

(k) Reconstructed or repaired vehicle. Every vehicle that has been rebuilt or repaired using like make and model parts and visually appears as a vehicle that was originally constructed under a distinctive manufacturer. This includes a salvage vehicle which is damaged to the extent that a "reconstructed vehicle" or "repaired vehicle" brand is required, and other vehicles which have been reconstructed by the use of a kit designed to be used to construct an exact replica of a vehicle which was previously constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles. A glider kit vehicle is not a reconstructed vehicle.

(l) Salvage vehicle. Any vehicle for which a salvage certificate, salvage bill of sale or other documentation showing evidence that the vehicle has been declared salvage or which has been damaged to the extent that the owner, or an insurer, or other person acting on behalf of the owner, determines that the cost of parts and labor minus the salvage value makes it uneconomical to repair or rebuild. When an insurance company has paid money or has made other monetary settlement as compensation for a total loss of any motor vehicle, such motor vehicle shall be considered to be a salvage vehicle.

(m) Specially constructed vehicle. Every vehicle of a type required to be registered not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction and cannot be visually identified as a vehicle produced by a particular manufacturer. This includes:

1. A vehicle that has been structurally modified so that it does not have the same appearance as a similar vehicle from the same manufacturer; or
2. A vehicle that has been constructed entirely from homemade parts and materials not obtained from other vehicles; or
3. A vehicle that has been constructed by using major component parts from one (1) or more manufactured vehicles and cannot be identified as a specific make or model; or
4. A vehicle constructed by the use of a custom kit that cannot be visually identified as a specific make or model.

(n) Total loss vehicle. Every vehicle that is deemed to be uneconomical to repair due to scrapping, dismantling or destruction. A total loss shall occur when an insurance company or any other person pays or makes other monetary settlement to the owner when it is deemed to be uneconomical to repair the damaged vehicle. The compensation for total loss as defined herein shall not include payments by an insurer or other person for medical care, bodily injury, vehicle rental or for anything other than the amount paid for the actual damage to the vehicle.

(3) "Vehicle identification number." (See "Identifying number," section 9-110, Idaho Code)

(4) "Vehicle salesman" means any person who, for a salary, commission or compensation of any kind, is employed either directly or indirectly, or regularly or occasionally by any dealer to sell, purchase or exchange, or to negotiate for the sale, purchase or exchange of vehicles. (See also "full-time salesman," section 49-107, Idaho Code, and "part-time salesman," section 49-117, Idaho Code)

(5) "Vessel." (See section 67-7003, Idaho Code)

(6) "Veteran." (See section 65-509, Idaho Code)

(7) "Violation" means a conviction of a misdemeanor charge involving a moving traffic violation, or an admission or judicial determination of the commission of an infraction involving a moving traffic infraction, except bicycle infractions.

**49-306. APPLICATION FOR DRIVER'S LICENSE OR INSTRUCTION PERMIT.**

(1) Every application for any instruction permit, restricted school attendance driving permit, or for a driver's license shall be made upon a form furnished by the department and shall be verified by the applicant before a person authorized to administer oaths. Officers and employees of the department and sheriffs and their deputies are authorized to administer the oaths without charge. Every application for a permit, extension or driver's license shall be accompanied by the following fee, none of which is refundable:

- (a) Class A, B, C (4-year) license with endorsements - age 21 years and older .....\$28.50
  - (b) Class A, B, C (3-year) license with endorsements - age 18 to 21 years.....\$20.50
  - (c) Class A, B, C (1-year) license with endorsements - age 20 years.....\$12.25
  - (d) Class D (3-year) license - under age 18 years .....\$20.50
  - (e) Class D (3-year) license - age 18 to 21 years .....\$20.50
  - (f) Class D (1-year) license - age 17 years or age 20 years .....\$12.25
  - (g) Four-year Class D license - age 21 years and older .....\$24.50
  - (h) Eight-year Class D license - age 21 to 63 years .....\$45.00
  - (i) Class A, B, C instruction permit .....\$19.50
  - (j) Class D instruction permit or supervised instruction permit .....\$11.50
  - (k) Duplicate driver's license or permit issued under section 49-318, Idaho Code .....\$11.50
  - (l) Driver's license extension issued under section 49-319, Idaho Code .....\$ 6.50
  - (m) License classification change (upgrade) .....\$15.50
  - (n) Endorsement addition .....\$11.50
  - (o) Class A, B, C skills tests ..... not more than \$55.00
  - (p) Class D skills test .....\$15.00
  - (q) Motorcycle endorsement skills test .....\$ 5.00
  - (r) Knowledge test .....\$ 3.00
  - (s) Seasonal driver's license .....\$27.50
  - (t) One time motorcycle "M" endorsement .....\$11.50
  - (u) Motorcycle endorsement instruction permit .....\$11.50
  - (v) Restricted driving permit or restricted school attendance driving permit .....\$35.00
- (2) Every application shall state the true and full name, date of birth, sex, declaration of Idaho residency, Idaho residence address and mailing address, if different, of the applicant, height, weight, hair color, and eye color, and the applicant's social security number as verified by the applicant's social security card or by the social security administration.
- (a) The requirement that an applicant provide a social security number as verified by his social security card or by the social security administration shall apply only to applicants who have been assigned a social security number.
  - (b) An applicant who has not been assigned a social security number shall:
    - (i) Present written verification from the social security administration that the applicant has not been assigned a social security number; and
    - (ii) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and
    - (iii) Submit such proof as the department may require that the applicant is lawfully present in the United States.

A driver's license or any instruction permit issued on and after January 1, 1993, shall not contain an applicant's social security number. Applications on file shall be exempt from disclosure except as provided in sections 49-202, 49-203, 49-203A and 49-204, Idaho Code. Every application shall also state whether the applicant has previously been licensed as a driver, and if so, when and by what state or country, and whether a driver's license or privileges have ever been suspended, revoked, denied, disqualified, canceled or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, denial, disqualification, cancellation or refusal and the applicant's oath that all information is correct as signified by the applicant's signature. The applicant may be required to submit proof of identity acceptable to the examiner or the department and date of birth as set forth in a certified copy of his birth certificate when obtainable, or another document which provides satisfactory evidence of a person's date of birth acceptable to the examiner or the department.

- (c) Individuals required to register in compliance with section 3 of the federal military selective service act, 50 U.S.C. App. 451 et seq., as amended, shall be provided an opportunity to fulfill such registration requirements in conjunction with an application for a driver's license or instruction permit. Any registration information so supplied shall be transmitted by the department to the selective service system.

- (3) Whenever an application is received from a person previously licensed in another jurisdiction, the department shall request a copy of the driver's record from the other jurisdiction and shall contact the national driver register. When received, the driver's record from the previous jurisdiction shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.
- (4) Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.
- (5) The department shall contact and notify the commercial driver license information system of the proposed application for a class A, B or C driver's license to insure identification of the person and to obtain clearance to issue the license.
- (6) When the fees required under this section are collected by a county officer, they shall be paid over to the county treasurer not less often than monthly, who shall immediately:
- (a) Deposit an amount equal to five dollars (\$5.00) from each driver's license except an eight-year class D license, or any class D instruction permit application fees, application for a duplicate driver's license or permit, classification change, seasonal driver's license and additional endorsement, and ten dollars (\$10.00) from each eight-year class D driver's license, in the current expense fund; and
  - (b) Deposit two dollars and fifty cents (\$2.50) from each motorcycle endorsement and motorcycle endorsement instruction permit fee in the current expense fund; and
  - (c) Deposit an amount equal to three dollars (\$3.00) from each fee for a knowledge test in the current expense fund; and
  - (d) Deposit an amount equal to five dollars (\$5.00) from each fee for a motorcycle endorsement skills test in the current expense fund; provided however, if a contractor administers the skills test he shall be entitled to the five dollar (\$5.00) fee; and
  - (e) Remit the remainder to the state treasurer; and
  - (f) Deposit eleven dollars and fifty cents (\$11.50) from each fee for a class D skills test into the county current expense fund, unless the test is administered by a department-approved contractor, in which case the contractor shall be entitled to eleven dollars and fifty cents (\$11.50) of each fee.
- (7) When the fees required under this section are collected by a state officer or agency, they shall be paid over to the state treasurer.
- (8) The state treasurer shall distribute the moneys received from fees imposed by the provisions of this section, whether collected by a county officer or by a state officer or agency as follows:
- (a) Two dollars (\$2.00) of each fee for a four-year driver's license or seasonal driver's license, and four dollars (\$4.00) of each fee for an eight-year class D driver's license, and one dollar and fifty cents (\$1.50) of each fee charged for driver's licenses pursuant to subsections (1)(b), (d) and (e) of this section, and fifty cents (50¢) of each fee charged for driver's licenses pursuant to subsections (1)(c) and (f) of this section, shall be deposited in the emergency medical services fund II created in section 56-1018A, Idaho Code, and four dollars (\$4.00) of each fee charged pursuant to subsections (1)(a), (g) and (s) of this section and eight dollars (\$8.00) of each fee charged pursuant to subsection (1)(h) of this section and three dollars (\$3.00) of each fee for driver's licenses pursuant to subsections (1)(b), (d) and (e) of this section, and one dollar (\$1.00) of each fee charged for driver's licenses pursuant to subsections (1)(c) and (f) of this section shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code; and
  - (b) Sixteen dollars and fifty cents (\$16.50) of each fee for a seasonal or class A, B or C driver's license, and ten dollars (\$10.00) of each fee charged for a license pursuant to subsection (1)(b) of this section, and five dollars and forty-one cents (\$5.41) of each fee charged for a license pursuant to subsection (1)(c) of this section shall be deposited in the state highway fund; and
  - (c) Ten dollars and fifty cents (\$10.50) of each fee for a class A, B or C instruction permit or driver's license classification change shall be deposited in the state highway fund; and
  - (d) Four dollars (\$4.00) of each fee for a class A, B or C instruction permit shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code; and
  - (e) Six dollars and fifty cents (\$6.50) of each fee for a duplicate seasonal or class A, B or C driver's license, class A, B or C driver's license extension, or additional endorsement shall be deposited in the state highway fund; and
  - (f) Four dollars (\$4.00) of each fee for a motorcycle endorsement and motorcycle endorsement instruction permit shall be deposited in the state highway fund; and
  - (g) Five dollars and thirty cents (\$5.30) of each fee for a four-year class D driver's license, and ten dollars and sixty cents (\$10.60) of each fee for an eight-year class D driver's license, and four dollars (\$4.00) of each fee charged for a license pursuant to subsections (1)(d) and (e) of this section, and one dollar and thirty-three cents

- (\$1.33) of each fee charged for a license pursuant to subsection (1)(f) of this section shall be deposited in the driver training fund; and
- (h) Seven dollars and twenty cents (\$7.20) of each fee for a four-year class D driver's license, and ten dollars and forty cents (\$10.40) of each fee for an eight-year class D driver's license, and six dollars (\$6.00) of each fee charged for a license pursuant to subsections (1)(d) and (e) of this section, and four dollars and eight cents (\$4.08) of each fee charged for a license pursuant to subsection (1)(f) of this section shall be deposited in the highway distribution fund; and
- (i) Two dollars and sixty cents (\$2.60) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the driver training fund; and
- (j) Three dollars and ninety cents (\$3.90) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the highway distribution fund; and
- (k) Five dollars (\$5.00) of each fee for a class A, B or C skills test shall be deposited in the state highway fund; and
- (l) One dollar (\$1.00) of each fee for a class A, B, C or four-year D driver's license, and two dollars (\$2.00) of each fee for an eight-year class D driver's license, and one dollar (\$1.00) of each fee charged for a license pursuant to subsections (1)(b), (d) and (e) of this section, and thirty-four cents (34¢) of each fee charged for a license pursuant to subsections (1)(c) and (f) of this section shall be deposited in the motorcycle safety program fund established in section 33-4904, Idaho Code; and
- (m) Three dollars and fifty cents (\$3.50) of each fee for a class D skills test shall be deposited into the state highway fund.
- (9) The contractor administering a class A, B or C skills test shall be entitled to not more than fifty dollars (\$50.00) of the skills test fee. A contractor administering a class A, B or C skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.
- (10) Thirty-five dollars (\$35.00) of each restricted driving permit and each restricted school attendance driving permit shall be deposited in the state highway fund.
- (11) The department may issue seasonal class B or C driver's licenses to drivers who are employees of agri-chemical businesses, custom harvesters, farm retail outlets and suppliers, and livestock feeders that:
- (a) Will only be valid for driving commercial vehicles that normally require class B or C commercial driver's licenses;
  - (b) Will be valid for seasonal periods that begin on the date of issuance and that are not to exceed one hundred eighty (180) days in a twelve (12) month period;
  - (c) May only be obtained twice in a driver's lifetime;
  - (d) Are valid only within a one hundred fifty (150) mile radius of the place of business or farm being serviced; and
  - (e) Will be valid only in conjunction with valid Idaho class D driver's licenses.
- (12) The department may issue seasonal class B or C driver's licenses to drivers who:
- (a) Have not violated the single license provisions of applicable federal regulations;
  - (b) Have not had any license suspensions, revocations or cancellations;
  - (c) Have not had any convictions in any vehicle for any offense listed in section 49-335(1) or (2), Idaho Code, or any one (1) serious traffic offense;
  - (d) Have at least one (1) year of driving experience with a class D or equivalent license in any type motor vehicle; and
  - (e) Are at least sixteen (16) years old.

#### **49-452. EMERGENCY MEDICAL SERVICES FEE.**

- (1) An emergency medical services fee of one dollar and twenty-five cents (\$1.25) shall be collected in addition to each motor vehicle registration fee amount collected under the provisions of this chapter, with the exception of those vehicles proportionally registered under section 49-435, Idaho Code. Twenty-five cents (\$.25) of the fee shall be retained by the county of residence for use in funding local emergency medical service costs. One dollar (\$1.00) of the fee shall be transmitted to the state treasurer for deposit in the emergency medical services fund established in section 56-1018, Idaho Code.
- (2) For vehicles registered under the provisions of section 49-402B, Idaho Code, the fee shall be two dollars and fifty cents (\$2.50). Fifty cents (\$.50) of the fee shall be retained by the county of residence for use in funding local emergency medical services costs. Two dollars (\$2.00) of the fee shall be transmitted to the state treasurer for deposit in the emergency medical services fund established in section 56-1018, Idaho Code.

**49-623. AUTHORIZED EMERGENCY OR POLICE VEHICLES.**

- (1) The driver of an or police vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions stated.
- (2) The driver of an authorized emergency or police vehicle may:
  - (a) Park or stand, irrespective of the parking or standing provisions of this title;
  - (b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
  - (c) Exceed the maximum speed limits so long as he does not endanger life or property;
  - (d) Disregard regulations governing direction of movement or turning in specified directions.
- (3) The exemptions granted to an authorized emergency or police vehicle shall apply when necessary to warn and to make use of an audible signal having a decibel rating of at least one hundred (100) at a distance of ten (10) feet and/or is displaying a flashing light visible in a 360 degree arc at a distance of one thousand (1,000) feet under normal atmospheric conditions.
- (4) The foregoing provisions shall not relieve the driver of an authorized emergency or police vehicle from the duty to drive with due regard for the safety of all persons, nor shall these provisions protect the driver from the consequences of his reckless disregard for the safety of others.

**49-625. OPERATION OF VEHICLES ON APPROACH OF AUTHORIZED EMERGENCY OR POLICE VEHICLES.**

- (1) The driver of an authorized emergency or police vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions stated.
- (2) The driver of an authorized emergency or police vehicle may:
  - (a) Park or stand, irrespective of the parking or standing provisions of this title;
  - (b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
  - (c) Exceed the maximum speed limits so long as he does not endanger life or property;
  - (d) Disregard regulations governing direction of movement or turning in specified directions.
- (3) The exemptions granted to an authorized emergency or police vehicle shall apply when necessary to warn and to make use of an audible signal having a decibel rating of at least one hundred (100) at a distance of ten (10) feet and/or is displaying a flashing light visible in a 360 degree arc at a distance of one thousand (1,000) feet under normal atmospheric conditions.
- (4) The foregoing provisions shall not relieve the driver of an authorized emergency or police vehicle from the duty to drive with due regard for the safety of all persons, nor shall these provisions protect the driver from the consequences of his reckless disregard for the safety of others.

**49-910A. COLOR OF LAMPS AND GLOBES LIMITED TO CERTAIN VEHICLE CLASSES.** For the purposes of this chapter lighting devices utilizing various colors of lighted globes approved by the director of the Idaho State Police for use on vehicles shall be restricted to the following class of vehicles:

- (1) Police vehicles. Only police vehicles shall display blue lights, lenses or globes.
- (2) Designated emergency vehicles. Fire fighting vehicles, vehicles belonging to personnel of voluntary fire departments, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho Department of Health and Welfare while in the performance of emergency medical services, ambulances, sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, and wreckers, as defined in section 49-124, Idaho Code, which are engaged in motor vehicle recovery operations and are blocking part or all of one or more lanes of traffic, are designated emergency vehicles. With the exception of school buses as provided in section 49-915, Idaho Code, only fire fighting vehicles, vehicles belonging to personnel of voluntary fire departments, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho Department of Health and Welfare while in the performance of emergency medical services, ambulances, designated emergency vehicles described herein, vehicles authorized by the Idaho transportation board for use in the enforcement of vehicle laws specified in section 40-510, Idaho Code, and other emergency vehicles designated by the director of the Idaho state police may display red flashing lights or red lenses or globes which are visible from the front of the vehicle.

- (3) All vehicles. Any motor vehicle may have attached to it a flashing amber light to warn motorists of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing the vehicle displaying such lighting. The driver of an approaching vehicle shall yield the right-of-way to any stationary vehicle displaying a flashing amber light.

#### **49-920. ADDITIONAL LIGHTING EQUIPMENT.**

- (1) Any motor vehicle may be equipped with not more than two (2) side cowl or fender lamps which shall emit an amber or white light without glare.
- (2) Any motor vehicle may be equipped with not more than one (1) running-board courtesy lamp on each side which shall emit a white or amber light without glare.
- (3) Any motor vehicle may be equipped with not more than two (2) back-up lamps either separately or in combination with other lamps, but any back-up lamp shall not be lighted when the motor vehicle is in forward motion.
- (4) Any vehicle may be equipped with lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing, and when so equipped may display that warning in addition to any other warning signals required by this title. Lamps used to display the warning to the front shall be mounted at the same level and as widely spaced laterally as practicable, and shall display simultaneously flashing white or amber lights, or any shade or color between white and amber. The lamps used to display the warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. These warning lights shall be visible from a distance of not less than five hundred (500) feet under normal atmospheric conditions at night.
- (5) Any commercial vehicle eighty (80) inches or more in overall width may be equipped with not more than three (3) identification lamps showing to the front which shall emit an amber light without glare, and not more than three (3) identification lamps showing to the rear which shall emit a red light without glare. These lamps shall be placed in a row and may be mounted either horizontally or vertically.

### **TITLE 54 PROFESSIONS, VOCATIONS, AND BUSINESSES**

**54-420. MEDICAL EMERGENCIES.** A promoter shall have an ambulance or paramedical unit present at the arena in case a serious injury occurs unless an ambulance or paramedical unit is located within five (5) miles of the arena and that unit is on call for such an occurrence.

**54-421. EMERGENCY MEDICAL EQUIPMENT AND PERSONNEL.** A promoter shall have an ambulance or paramedical unit with appropriate resuscitation equipment continuously present at the event site during the performance of all boxing contests, boxing exhibitions and wrestling exhibitions in case a serious injury occurs.

### **TITLE 56 PUBLIC ASSISTANCE AND WELFARE**

**56-1011. EMERGENCY MEDICAL SERVICES -- STATEMENT OF INTENT.** It is the purpose of the legislature of the state of Idaho in the adoption of sections 56-1011 through 56-1018B, Idaho Code, to recognize the importance of the delivery of emergency medical services and to provide reasonable regulation of the same. For this purpose, the provisions of section 54-1803, Idaho Code, shall not be so construed as to prohibit or penalize emergency medical services rendered by a person authorized to render emergency medical services by sections 56-1011 through 56-1018B, Idaho Code, if such emergency medical service is rendered under the responsible supervision and control of a licensed physician.

**56-1012. DEFINITIONS.** As used in sections 56-1011 through 56-1018B, Idaho Code:

- (1) "Ambulance" means any privately or publicly owned ground vehicle, nautical vessel, fixed wing aircraft or rotary wing aircraft used for, or intended to be used for the transportation of sick or injured persons who may need medical attention during transport. This may include dual or multipurpose vehicles which otherwise comply with sections 56-1011 through 56-1018B, Idaho Code, and specifications established by the board of health and welfare.
- (2) "Board of Health and Welfare" means the Idaho Board of Health and Welfare.
- (3) "Board of Medicine" means the Idaho board of medicine as provided in chapter 18, title 54, Idaho Code.
- (4) "Certified Personnel" means individuals who have completed training and successfully passed examinations for training and skills proficiency in one (1) or several levels as certified by the department of health and welfare. These several levels of certified personnel shall include:

- (a) FR -- "First Responder" (hereafter FR) means an individual certified by the EMS bureau of the Idaho Department of Health and Welfare as an FR on the basis of successful completion of an FR course approved by the Board of Health and Welfare and subsequent required continuing training.
- (b) EMT-B -- "Emergency Medical Technician-Basic" (hereafter EMT-B) means an individual certified by the EMS bureau of the Idaho Department of Health and Welfare on the basis of successful completion of an EMT-B course approved by the Board of Health and Welfare and subsequent required continuing training.
- (c) "Ambulance Rating" means a certification issued by the EMS bureau of the Idaho Department of Health and Welfare to an EMT-B on the basis of successful completion of supervised infield ambulance experience as defined by the Board of Health and Welfare.
- (d) "Advanced Emergency Medical Technician-Ambulance" (hereafter advanced EMT-A) means a person who:
  - (i) Is certified by the EMS bureau of the Idaho Department of Health and Welfare on the basis of successful completion of EMT-A training and in addition, has completed at least fifty (50) hours of advanced training in such techniques as intravenous fluid therapy, antishock trouser application, airway management, and subsequent required continued training; and
  - (ii) Has received additional training by a licensed physician:
    - (A) To administer drugs under written or oral authorization of a licensed physician; and
    - (B) To perform such other acts under written or oral authorization of a licensed physician as shall be authorized by the board of medicine; and
  - (iii) Has been examined and certified as an advanced EMT-A by an authorized representative of the department.
- (e) "Emergency Medical Technician-Intermediate" (hereafter EMT-I) means a person who:
  - (i) Has completed all the requirements for certification as an EMT-I; and
  - (ii) Has successfully completed a course in patient care including the required training under the supervision of a licensed physician covering the scope of practice defined by the board of medicine; and
  - (iii) Has been examined and certified as an EMT-I by an authorized representative of the department.
- (f) "Emergency Medical Technician-Paramedic" (hereafter EMT-P) means a person who:
  - (i) Has completed all the requirements for certification as an EMT-P; and
  - (ii) Has successfully completed a course in intensive patient care including the required training under the supervision of a licensed physician, including training in cardiac defibrillation, cardiac monitoring, endotracheal intubation and drug administration; and
  - (iii) Has been examined and certified as an EMT-P by an authorized representative of the department.
- (5) "Department" means the Idaho Department of Health and Welfare.
- (6) "Emergency Medical Services" means the services utilized in responding to a perceived individual need for immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.
- (7) "Non-Transport Service" means a service licensed by the Department of Health and Welfare, EMS bureau, operated with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended to be the service that will actually transport sick or injured persons.
- (8) "Non-Transport Vehicle" means any vehicle licensed by the Department of Health and Welfare, EMS bureau, operated with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended as the vehicle that will actually transport sick or injured persons.
- (9) "Supervision" means the medical direction by a licensed physician of activities provided by certified personnel affiliated with a licensed ambulance or non-transport service, including, but not limited to: establishing standing orders and protocols, reviewing performance of certified personnel, providing instructions for patient care via radio or telephone, and other oversight.
- (10) "Transfer" means the transportation of a patient from one (1) medical care facility to another.

**56-1013. AUTHORIZED ACTIONS.** Persons certified by the department shall be authorized to perform such acts under written or oral authorization of a licensed physician as shall be established by rules of the board of medicine, including, but not limited to, administration of intravenous solutions and drugs, cardiac defibrillation, antishock trouser application, airway management, endotracheal intubation, and other patient care.

**56-1014. LIABILITY.** No act or omission of any person who is duly certified under sections 56-1011 through 56-1018B, Idaho Code, by the Department of Health and Welfare done or omitted in good faith while rendering emergency medical services to a person or persons who are perceived to need immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury shall impose any liability upon those personnel, the supervising

physician, the hospital, the organization providing the service, or upon a federal, state, county, city or other local governmental unit, or upon employees of such governmental unit, unless such provider of care or such personnel be shown to have caused injury and damages to such person or persons as a proximate result of his, her or their reckless or grossly negligent misconduct, which shall be the sole grounds for civil liability of such persons in the provision of care or assistance under sections 56-1011 through 56-1018B, Idaho Code, regardless of the circumstance under which such care or assistance may be provided. This section shall not relieve the organization or agency operating the service from the duty of securing, maintaining and operating, the equipment designated for use in performing the emergency medical services.

**56-1015. FAILURE TO OBTAIN CONSENT.** No person certified under sections 56-1011 through 56-1018B, Idaho Code, or physician or hospital licensed in this state shall be subject to civil liability, based solely upon failure to obtain consent in rendering emergency medical, surgical, hospital or health services to any individual regardless of age where that individual is unable to give this consent for any reason and there is no other person reasonably available who is legally authorized to consent to the providing of such care, provided, however, that such person, physician, or hospital has acted in good faith and without knowledge of facts negating consent. The provision or refusal of consent under sections 56-1011 through 56-1018B, Idaho Code, shall be governed by chapter 43, title 39, Idaho Code.

**56-1016. AMBULANCE MINIMUM STANDARDS.** Each ambulance service and non-transport service shall be licensed by the department and shall meet the following standards:

- (1) Ambulance vehicles -- Each new ambulance vehicle purchased after the effective date of these standards shall conform to the ambulance vehicle specifications for that type established by the board of health and welfare. The patient compartment of each ambulance vehicle shall be maintained in a clean and sanitary condition.
- (2) Ambulance equipment -- Each ambulance shall be equipped with the patient care items deemed essential for that type of ambulance by the board of health and welfare.
- (3) Ambulance personnel -- There shall be at least two (2) ambulance crew members on each patient transport, with the crew member delivering patient care being, at a minimum, a state certified emergency medical technician (EMT), except that with the patient's and the patient's physician's permission, an EMT attendant shall not be required on routine, nonemergency transfer calls.
- (4) Ambulance dispatch -- Each ambulance service shall have a twenty-four (24) hour dispatch arrangement and shall respond to calls on a twenty-four (24) hour basis.
- (5) Ambulance inspections and licensing -- The department of health and welfare, EMS bureau, shall conduct inspections at least annually related to ambulance service licensing or shall contract to have the inspections carried out. Each ambulance and non-transport vehicle shall have a current state license in order to operate.
- (6) Ambulance minimum standards waiver -- The controlling authority providing ambulance services may petition the board of health and welfare for waiver of the ambulance standards of sections 56-1011 through 56-1018B, Idaho Code, if compliance with these standards would cause undue hardship on the community being served, or would result in abandonment of ambulance services.
- (7) All ambulances in service on the effective date of sections 56-1011 through 56-1018B, Idaho Code, are accorded "grandfather rights," and are therefore exempt from the ambulance vehicle specifications established by the board of health and welfare, whether or not such ambulances continue under the control of the same authority.

**56-1017. RULES.**

- (1) The board of medicine is authorized and directed to adopt appropriate rules defining the allowable scope of practice and acts and duties which can be performed by persons certified by the department and the required level of supervision by a licensed physician.
- (2) The board of health and welfare is authorized and directed to adopt appropriate rules and standards concerning the administration of sections 56-1011 through 56-1018B, Idaho Code, including criteria for training programs, certification of personnel, licensure of ambulances and non-transport services, licensure of ambulance and non-transport vehicles, criteria for the use of air medical services by certified EMS personnel at emergency scenes, establishment of fees for training, inspections, and certifications, and appropriate requirements for recertification of personnel and equipment. The rules of the board of health and welfare must be consistent with the rules adopted by the board of medicine.
- (3) Additionally, the department shall develop guidelines, standards and procedures for reducing exposure to pathogens from human blood, tissue or fluids. Such guidelines, standards and procedures shall be made available to all law enforcement personnel, all emergency medical services personnel, and such other emergency personnel as request such information.



**56-1018. EMERGENCY MEDICAL SERVICES FUND.** There is hereby created in the dedicated fund of the state treasury a fund known as the "Emergency Medical Services Fund." Subject to appropriation by the legislature, moneys in the fund shall be used exclusively for the purposes of emergency medical services training, communications, vehicle and equipment grants, and other programs furthering the goals of highway safety and emergency response providing medical services at motor vehicle accidents.

**56-1018A. EMERGENCY MEDICAL SERVICES FUND II.** There is hereby created in the dedicated fund of the state treasury a fund known as the emergency medical services fund II. Subject to appropriation by the legislature, moneys in the fund shall be used exclusively for the purposes of emergency medical services.

**56-1018B. EMERGENCY MEDICAL SERVICES FUND III.**

- (1) There is hereby created in the dedicated fund of the state treasury a fund known as the emergency medical services fund III. Subject to appropriation by the legislature, moneys in the fund shall be used exclusively for the purpose of acquiring vehicles and equipment for use by emergency medical services personnel in the performance of their duties which include highway safety and emergency response to motor vehicle accidents.
- (2) The Bureau of Emergency Medical Services of the Department of Health and Welfare shall be responsible for distributing moneys from the fund to qualifying nonprofit and governmental entities that submit an application for a grant from the fund. The bureau shall approve grants based on the following criteria:
  - (a) The requesting entity is a nonprofit or governmental entity which holds a current license as an ambulance or nontransport service issued by the state of Idaho;
  - (b) The requesting entity has demonstrated need based on criteria established by the bureau;
  - (c) The requesting entity has provided verification that it has received the approval and endorsement of a city or county within its service area;
  - (d) The requesting entity has certified that the title to any vehicle purchased with funds from the fund shall be in the name of the city or county which endorsed the application and shall submit proof of titling as soon as practicable;
  - (e) The state of Idaho shall retain a security interest in the vehicle to secure the performance of the grant recipient to utilize the vehicle consistent with the intent described in the application.
- (3) Notwithstanding the requirements of subsections (2)(c) and (2)(d) of this section, the bureau of emergency medical services is authorized to approve and issue a grant to an applicant in the absence of an endorsement if the endorsement is withheld without adequate justification.

**56-1020. LEGISLATIVE INTENT.** It is the legislative intent to recognize the established common law and the fundamental right of a person to control the decisions relative to the rendering or withholding of their medical care. It is the purpose of this legislation to establish rules and procedures allowing the physician of a terminally ill person, with the authorization of the person or their legal representative, to be able to issue a directive, in advance, instructing medical personnel not to perform resuscitation if called to attend to those persons. A method of identification is defined and correct procedures outlined for medical personnel to properly respond to these situations.

**56-1021.1. DEFINITIONS.** As used in sections 56-1020 through 56-1035, Idaho Code:

- (1) "Attending physician" means the physician who has primary responsibility for the treatment and care of the patient, including the physician responsible for monitoring and directing the activities of medical personnel.
- (2) "Cardiopulmonary resuscitation" or "CPR" means measures to restore cardiac function or to support breathing in the event of cardiac or respiratory arrest or malfunction. "CPR" includes, but is not limited to, chest compression, delivering electric shock to the chest, or placing tubes in the airway to assist breathing.
- (3) "Comfort care" means treatment given in an attempt to protect and enhance quality of life without artificially prolonging that life.
- (4) "Decisional capacity" means the ability to provide informed consent to or refusal of medical treatment.
- (5) "Department" means the department of health and welfare.
- (6) "Do not resuscitate identification" or "DNR identification" means a standardized form of identification approved by the department, that signifies that the possessor has a DNR order that has not been revoked or that the possessor's attending physician has issued a DNR order for the possessor and has documented the order in the possessor's medical file.

- (7) "Do not resuscitate order" or "DNR order" means a documented directive from a licensed physician that life-sustaining procedures should not be administered to a particular person.
- (8) "Do not resuscitate protocol" or "DNR protocol" means a standardized method or procedure for the withholding of life-sustaining procedures by physicians and medical personnel.
- (9) "Emergency medical services personnel" means the personnel of a service engaged in providing initial emergency medical assistance including, but not limited to, first responders, emergency medical technicians, advanced emergency medical technicians, and paramedics.
- (10) "Health care provider" or "provider" means any person licensed, certified, or otherwise authorized by law to administer health care in the ordinary course of business or practice of a profession, including emergency and other medical personnel.
- (11) "Life-sustaining procedure" means cardiopulmonary resuscitation or a component of cardiopulmonary resuscitation.
- (12) "Terminal condition" means an incurable or irreversible condition that, without the administration of life-sustaining procedures, will, in the opinion of the attending physician, result in death within a relatively short time.

**56-1022. EUTHANASIA, MERCY KILLING OR ASSISTED SUICIDE.** Sections 56-1020 through 56-1035, Idaho Code, do not make legal and in no way condone mercy killing, assisted suicide or euthanasia.

**56-1023. DECLARATION RELATING TO USE OF LIFE-SUSTAINING PROCEDURES.**

- (1) A person in a terminal condition has a right to a DNR order governing the withholding of life-sustaining procedures.
- (2) A DNR order has operative effect only when:
  - (a) The request for the DNR order is communicated to the attending physician by the patient or his legal representative; and
  - (b) The recipient is determined by the attending physician to be in a terminal condition.

**56-1024. REVOCATION.** A person may, at any time, revoke his or her consent to an order not to resuscitate himself or herself by making either a written or an oral declaration to a health care provider or by any other act evidencing a specific intent to revoke such consent.

**56-1025. CONFLICTING DNR ORDERS.** If there are conflicts among the provisions of valid DNR orders, the most recent DNR order is deemed to represent the wishes of the patient.

**56-1026. ADHERENCE TO DNR PROTOCOL.**

- (1) Medical personnel shall comply with the DNR protocol when presented with either DNR identification, or, upon transfer, a written DNR order issued directly by the attending physician and shall provide comfort care to the person.
- (2) An attending physician shall take all reasonable steps to comply with the intent of the DNR identification.

**56-1027. DISREGARDING OF DNR ORDER.** Health care providers may disregard the DNR order:

- (1) If they believe in good faith that the order has been revoked; or
- (2) To avoid verbal or physical confrontation; or
- (3) If ordered to do so by the attending physician.

**56-1028. ABSENCE OF DNR ORDER.** In the absence of DNR identification there is a presumption in favor of resuscitation.

**56-1029. IMMUNITY.**

- (1) The following are not subject to civil or criminal liability and are not guilty of unprofessional conduct upon discovery of DNR identification upon a person and compliance with the DNR order:
  - (a) A physician who causes the withholding or withdrawal of life-sustaining procedures from that person;
  - (b) A person who participates in the withholding or withdrawal of life-sustaining procedures under the direction or with the authorization of a physician;
  - (c) Health care providers, including emergency medical services personnel, who cause or participate in the withholding or withdrawal of life-sustaining procedures from that person;

- (d) Physicians, persons under the direction or authorization of a physician, or medical personnel that provide life-sustaining procedures pursuant to an oral or written revocation communicated to them by a person who possesses DNR identification; or
- (e) Health care providers acting pursuant to and in compliance with section 56-1027, Idaho Code.
- (2) The provisions of subsections (1) (a) through (1) (e) of this section apply when a life-sustaining procedure is withheld or withdrawn in accordance with a DNR protocol.
- (3) Health care providers, coroners and deputy coroners who follow a DNR order from a licensed physician are not subject to civil or criminal liability and are not guilty of unprofessional conduct.

#### **56-1030. PENALTIES.**

- (1) A physician who willfully or negligently disregards the intent of the DNR identification is guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500) or imprisonment in the county jail for a term not to exceed six (6) months, or both.
- (2) Except as provided in section 56-1027, Idaho Code, a person who purposely disregards a DNR order or who conceals, cancels, defaces, or obliterates the DNR identification of another without the consent of the possessor or who falsifies or forges a revocation of the DNR identification of another is guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500) or imprisonment in the county jail for a term not to exceed six (6) months, or both.
- (3) A person who falsifies or forges the DNR identification of another or purposely conceals or withholds personal knowledge of a revocation of DNR identification with the intent to cause the use, withholding, or withdrawal of life-sustaining procedures is guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500) or imprisonment in the county jail for a term not to exceed one (1) year, or both.

#### **56-1031. EFFECT ON INSURANCE -- PATIENT'S DECISION.**

- (1) Death resulting from the withholding or withdrawal of emergency life-sustaining procedures pursuant to the DNR protocol and in accordance with sections 56-1020 through 56-1035, Idaho Code, is not, for any purpose, a suicide or homicide.
- (2) The possession of DNR identification pursuant to sections 56-1020 through 56-1035, Idaho Code, does not affect in any manner the sale, procurement, or issuance of any policy of life insurance, nor does it modify the terms of an existing policy of life insurance. A policy of life insurance is not legally impaired or invalidated in any manner by the withholding or withdrawal of emergency life-sustaining procedures from an insured person possessing DNR identification, notwithstanding any term of the policy to the contrary.
- (3) A physician, health care facility, or other health care provider and a health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital plan may not require a person to possess DNR identification as a condition for being insured for or receiving health care services.
- (4) Sections 56-1020 through 56-1035, Idaho Code, do not create a presumption concerning the intention of an individual who does not possess DNR identification with respect to the use, withholding, or withdrawal of emergency life-sustaining procedures.
- (5) Sections 56-1020 through 56-1035, Idaho Code, do not increase or decrease the right of a patient to make decisions regarding the use of emergency life-sustaining procedures if the patient is able to do so, nor do sections 56-1020 through 56-1035, Idaho Code, impair or supersede any right or responsibility that a person has to effect the withholding or withdrawal of medical care in any lawful manner. In that respect sections 56-1020 through 56-1035, Idaho Code, are cumulative.

**56-1032. PRESERVATION OF EXISTING RIGHTS.** Sections 56-1020 through 56-1035, Idaho Code, are cumulative to the existing law regarding an individual's right to consent, or refusal to consent, to medical treatment and do not impair any existing rights or responsibilities which a health care provider, a patient, including a minor, competent or incompetent person, or a patient's family may have in regard to the withholding or withdrawal of life-prolonging medical procedures or any other health care decision-making under the common law or statutes of this state.

**56-1033. PRIOR AND OUT-OF-STATE DNR ORDERS AND IDENTIFICATION -- VALIDITY.** A DNR order or identification prepared before the effective date of sections 56-1020 through 56-1035, Idaho Code, or prepared in another state, district, or territory of the United States, is valid in this state.

**56-1034. APPLICATION TO MASS CASUALTIES.** Sections 56-1020 through 56-1035, Idaho Code, do not apply to situations involving mass casualties.

**56-1035. RULEMAKING AUTHORITY.**

- (1) The department shall adopt only those rules necessary to administer the provisions of sections 56-1020 through 56-1035, Idaho Code, including appropriate protocols.
- (2) Upon the adoption of a DNR protocol, the department shall adopt a standard form of DNR identification to be used statewide.

**56-1036. LEGISLATIVE INTENT.**

- (1) The legislature finds that accidental poisoning is a serious public health problem in the state of Idaho and is a problem that disproportionately affects Idaho's children. It further finds that a significant reduction in the morbidity and mortality resulting from such accidental poisonings has occurred as a result of the services provided by the poison control center.
- (2) The purpose of sections 56-1036 through 56-1040, Idaho Code, is to declare legislative support for the important work of the poison control center and to assure, by statute, the continued existence of the poison control center.
- (3) The legislature finds that the poison control center has saved lives and reduced suffering associated with poisoning by providing emergency telephone assistance and treatment referral to victims of such incidents, by providing immediate treatment information to health care professionals, and by providing public education and prevention programs.
- (4) The legislature recognizes that enhanced cooperation between the emergency medical system and poison control centers will aid in responding to emergencies resulting from exposure to poisons and that, by providing telephone assistance to individuals with possible exposure to poisons, the need for emergency room and professional office visits will be reduced. As a result, the cost of health care to those who may have been poisoned will be avoided or reduced and appropriate treatment will be assured.

**56-1037. POISON CONTROL CENTER ESTABLISHED -- SERVICES OFFERED.** The director of the Department of Health and Welfare (for purposes of section 56-1036 through 56-1040, Idaho Code, "director") shall establish, and provide support in a manner consistent with sections 56-1036 through 56-1040, Idaho Code, a statewide poison control center. The poison control center shall offer the following services:

- (1) Provide twenty-four (24) hour emergency telephone management and treatment referral of victims of poisoning to include determining whether treatment can be accomplished at the scene of the incident or transport to an emergency treatment or other facility is required, and carrying out telephone follow-up to families and other individuals to assure that adequate care is provided;
- (2) Provide information to health professionals involved in management of poisoning and overdose victims; and
- (3) Provide coordination and development of community education programs designed to inform the public and members of the health professions of poison prevention and treatment methods and to improve awareness of poisoning problems, occupational risks and environmental exposures.

**56-1038. COORDINATION WITH OTHER AGENCIES.** The director shall establish a system for consulting with other state agency programs concerned with poisons and poisonings, incidents involving exposures to potentially poisonous substances, and other toxicological matters to develop the most coordinated and consistent response to such situations as is reasonably possible.

**56-1039. POWER TO ACCEPT FEDERAL FUNDS AND GIFTS.** The director may accept federal funds granted by congress or executive order, as well as gifts, grants, endowments and/or donations from individuals and private organizations or foundations for all or any of the purposes of the poison control center.

**56-1040. RULEMAKING AUTHORITY.** The director shall adopt rules necessary to administer sections 56-1036 through 56-1040, Idaho Code, pursuant to chapter 52, title 67, Idaho Code.

## **TITLE 57 PUBLIC FUNDS IN GENERAL**

**57-2001. PURPOSE OF THE REGISTRY. [EFFECTIVE UNTIL JANUARY 1, 2008.]**

- (1) The specific issues to be identified and evaluated through the trauma registry are:

- (a) Injury surveillance;
  - (b) Geographic patterns of trauma incidence;
  - (c) Types of injuries treated in hospitals in Idaho;
  - (d) Areas or regions of the state where improvements in the emergency medical system may be needed;
  - (e) Public education and prevention needs and efforts; and
  - (f) Other factors to consider in recommending, designing or implementing a statewide trauma system.
- (2) The data collected by the trauma registry shall be of such a nature as to allow the department to identify at least the following:
- (a) Access to care;
  - (b) Performance of the out-of-hospital and hospital emergency medical systems;
  - (c) Costs of trauma care; and
  - (d) Outcomes of persons who are victims of trauma.
- (3) The department shall evaluate the data collected, as well as data collected from other relevant sources, and, beginning one (1) year after the effective date of this chapter, shall prepare an annual report.

**57-2002. TRAUMA REGISTRY -- DEFINITIONS. [EFFECTIVE UNTIL JANUARY 1, 2008.]** When used in this chapter:

- (1) "Confidential information" means information which may identify a patient, health care facility or health care practitioner.
- (2) "Contractor" means that individual, partnership, corporation or other entity performing trauma registry services under a contractual agreement with the department.
- (3) "Deidentified information" means records and information contained in the trauma registry, including compilations and analyses thereof, which does not contain information which might identify a patient, health care facility or health care practitioner.
- (4) "Department" means the bureau of emergency medical services of the Idaho Department of Health and Welfare.
- (5) "Trauma" is the result of an act or event that damages, harms or hurts a human being resulting in intentional or unintentional damage to the body resulting from acute exposure to mechanical, thermal, electrical, or chemical energy or from the absence of such essentials as heat or oxygen.
- (6) "Trauma registry" means the population based data system that provides ongoing and systematic collection, analysis, interpretation, and dissemination of information related to injury for system improvement, prevention and research activities. Elements in the registry shall describe the nature and scope of the injury problem, identify the incidence and prevalence of traumatic injury, severity of injury, performance of out-of-hospital and hospital emergency medical systems, patient outcome, and the impact of trauma on the health care system.
- (7) "Trauma system" means the organized approach to treating injured patients that establishes and promotes standards for patient transportation, equipment, and information analysis for effective and coordinated trauma care. Trauma systems represent a continuum of care that is fully integrated into the emergency medical services system and is a coordinated effort between out-of-hospital and hospital providers with the close cooperation of medical specialists in each phase of care. The focus is on prevention, coordination of acute care, and aggressive rehabilitation. Ideally, systems are designed to be inclusive of all injured patients requiring acute care facilities, striving to meet the needs of the patient, regardless of the severity of injury, geographic location or population density. Ultimately, a trauma system seeks to prevent injuries from happening and the reduction of death and disability when it does happen.

**57-2005. CREATION OF TRAUMA REGISTRY FUND -- PURPOSE. [EFFECTIVE UNTIL JANUARY 1, 2008.]** There is hereby created and established in the state treasury a fund to be known as the "Trauma Registry Fund" to which shall be deposited the revenues derived from grants, appropriations or other sources of funds. All moneys now or hereafter in the trauma registry fund are hereby dedicated for the purpose of contracting for and obtaining the services of a continuous registry of all trauma incident patients in the state of Idaho and maintaining cooperative exchange of information with other states providing a similar trauma incident registry. The Department of Health and Welfare, Bureau of Emergency Medical Services, is charged with the administration of this fund for the purposes specified herein. All claims against the fund shall be examined, audited and allowed in the manner now or hereafter provided by law for claims against the state of Idaho.

**TITLE 59 PUBLIC EMPLOYEES RETIREMENT SYSTEM**  
**59-1303. ADDITIONAL DEFINITIONS FOR POLICE OFFICER STATUS.**

- (1) As used in this chapter, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.
- (2) Police officer membership status for retirement purposes may be fixed only by law, or by order of the retirement board.
- (3) Members holding or filling the following positions or offices are designated by law as police officer members for retirement purposes during the time of their appointment to that position or during their term of office:
  - (a) (i) The director and deputy director of the Idaho State Police.  
(ii) Commissioned personnel of the Idaho state police holding positions which involve active law enforcement services, for which current POST certification is required to continue in employment in the position, POST instructors, and Idaho state police training instructors.  
(iii) Brand inspectors and brand inspector supervisors.  
(iv) Employees of the Idaho State Police serving in positions of personnel management, accounting, data processing, clerical services and in like general classifications found in departments throughout state government and not within the scope of active law enforcement service are not eligible for police officer member status.
  - (b) (i) County sheriffs;  
(ii) Deputy county sheriffs holding positions for which current POST certification is necessary to continue in employment in the position, the principal duties of which are active law enforcement service; deputy county sheriffs holding positions which require accountability for the safety and safekeeping of persons confined in a city or county confinement facility or whose duties require active participation in county law enforcement activities pertaining to crime prevention or reduction; deputy sheriffs, even though POST certified or required to be POST certified, holding positions whose principal full-time duties are those of a telephone operator, clerk, stenographer, animal control officer, records specialist, or duties not within the scope of active law enforcement service are not eligible for police officer member status.
  - (c) (i) City police chiefs;  
(ii) City police officers holding positions for which current POST certification is necessary to continue in employment in the position, the principal duties of which are active law enforcement service; city police officers holding positions which require accountability for the safety and safekeeping of persons confined in a city or county confinement facility or whose duties require active participation in city law enforcement activities pertaining to crime prevention or reduction; police officers, even though POST certified or required to be POST certified, holding positions whose principal full-time duties are those of a telephone operator, clerk, stenographer, animal control officer, records specialist, or duties not within the scope of active law enforcement service are not eligible for police officer member status.
  - (d) Employees of the department of fish and game serving in a conservation officer position for which current POST certification is necessary to continue in employment in that position and which position has as its primary accountability the enforcement of wildlife protection laws and regulations.
  - (e) (i) The director of the Department of Correction, the deputy director for probation and parole, and wardens of institutions;  
(ii) Employees of the Department of Correction accountable for the custody, safety, safekeeping or supervision of persons confined in a department confinement facility and whose work station is located within the confinement facility;  
(iii) Probation and parole supervisors, probation and parole investigators, and probation and parole officers;  
(iv) Correctional peace officer training instructors;  
(v) Employees of the Department of Correction serving in positions of personnel management, accounting, data processing, clerical services and in like general classifications found in departments throughout state government and not within the scope of active law enforcement service are not eligible for police officer member status.
  - (f) Employees of the adjutant general and military division of the state where military membership is a condition of employment.
  - (g) Magistrates of the district court; justices of the supreme court, judges of the court of appeals, and district judges who have made an election under section 1-2011, Idaho Code; and court employees designated by court order to have primary responsibility for court security or transportation of prisoners.
  - (h) Paramedics and paramedic trainees.
  - (i) Criminal investigators of the attorney general's office, and criminal investigators of a prosecuting attorney's office.

- (j) The director of security and the criminal investigators of the Idaho state lottery.
- (4) A member may be designated by the retirement board as a police officer member for retirement purposes if the position held is one in which the principal duties involve hazardous law enforcement duties.
  - (a) For purposes of this section, "hazardous law enforcement duties" means principal duties which:
    - (i) Will reasonably expect to increase the probability of early superannuation;
    - (ii) Are associated with life-threatening risk or present a position of peril either to the member or to others, or which can place the public safety in jeopardy; and
    - (iii) Either compel others to observe the law, pertain to crime prevention, or pertain to crime reduction, including police, courts, prosecution, correction, or rehabilitation.
  - (b) If continued employment in a position is conditioned on maintaining current POST certification, such condition shall be evidence to be considered that the employee is a police officer member for retirement purposes.
    - (i) After July 1, 1999, a requirement for POST certification for classified state employees may be made only by the administrator of the Division of Human Resources pursuant to chapter 53, title 67, Idaho Code.
  - (c) Occasional assignments to hazardous law enforcement duties do not create a condition for designation as a police officer member for retirement purposes.
- (5) Any employer or agency that believes that any employee, not specifically designated as a police officer by law, is incorrectly classified as a nonpolice officer member, may petition the retirement board for inclusion of that employee's position as one to be filled by a police officer member for retirement purposes. The petition shall be in writing and shall explain in detail the principal duties of the position and include written evidence which establishes that the criteria of subsection (4) are met. The board shall review the petition and evidence, together with such information and evidence as may be presented by the staff of the retirement system. The board may decide the matter based upon the information supplied, may request additional information, or may request an oral presentation before the board. The decision of the board shall be final, but a similar petition may be resubmitted after six (6) months.
- (6) On and after July 1, 1985, no active member shall be classified as a police officer for retirement purposes unless the employer shall have certified to the board, on a form provided by the board, that such member is an employee whose primary position with the employer is one designated as such within the meaning of this chapter, and the board shall have accepted such certification. Acceptance by the board of an employer's certification shall in no way limit the board's right to review and reclassify the position for retirement purposes based upon an audit or other relevant information presented to the board.
- (7) An active member classified as a police officer for retirement purposes whose position is reclassified to that of a general member for retirement purposes as a result of a determination that the position does not meet the requirements of this chapter for police officer status for retirement purposes shall become a general member but shall not lose retirement benefits earned and accrued prior to the reclassification. If that member continues to be employed in that same position until retired, that member then will be deemed to be a police officer member for the purposes of retirement eligibility.

## **TITLE 63 REVENUE AND TAXATION**

### **63-36220. EXEMPT PRIVATE AND PUBLIC ORGANIZATIONS.**

- (1) There are exempted from the taxes imposed by this chapter:
  - (a) Sales to or purchases by hospitals, health-related entities, educational institutions, forest protective associations and canal companies which are nonprofit organizations; and
  - (b) Donations to, sales to, and purchases by the Idaho Foodbank Warehouse, Inc.; and
  - (c) Donations to, sales to, and purchases by food banks or soup kitchens of food or other tangible personal property used by food banks or soup kitchens in the growing, storage, preparation or service of food, but not including motor vehicles or trailers; and
  - (d) Sales of clothes to, donations of clothes to, and purchases of clothes by nonsale clothiers; and
  - (e) Sales to or purchases by centers for independent living; and
  - (f) Sales to or purchases by the state of Idaho and its agencies and its political subdivisions; and
  - (g) Sales to or purchases by volunteer fire departments or licensed emergency medical service agencies;
  - (h) Sales to or purchases by a qualifying senior citizen center; and
  - (i) Sales to or purchases by the Blind Services Foundation, Inc.
- (2) As used in this section, these words shall have the following meanings:
  - (a) "Educational institution" shall mean nonprofit colleges, universities, public charter schools organized pursuant to chapter 52, title 33, Idaho Code, and other primary and secondary schools, the income of which is devoted solely to education and in which systematic instruction in the usual branches of learning is given. This definition does not

include schools primarily teaching business, dancing, dramatics, music, cosmetology, writing, gymnastics, exercise and other special accomplishments nor parent-teacher associations, parent groups, alumni or other auxiliary organizations with purposes related to the educational function of an institution or collective group of institutions.

(b) "Hospital" shall include nonprofit institutions licensed by the state for the care of ill persons. It shall not extend to nursing homes or similar institutions.

(c) "Health-related entities" shall mean the Idaho Cystic Fibrosis Foundation, Idaho Epilepsy League, Idaho Lung Association, March of Dimes, American Cancer Society, Mental Health Association, The Arc, The Children's Home Society of Idaho, American Heart Association, Idaho Ronald McDonald House, United Cerebral Palsy, Arthritis Foundation, Muscular Dystrophy Foundation, National Multiple Sclerosis Society, Rocky Mountain Kidney Association, American Diabetes Association, Easter Seals, Idaho Community Action Agencies, Idaho Primary Care Association and community health centers who are members of the Idaho Primary Care Association, the Idaho Diabetes Youth Programs, Special Olympics Idaho, the Idaho Women's and Children's Alliance, and the Family Services Alliance of Southeast Idaho, together with said entities' local or regional chapters or divisions.

(d) "Canal companies" shall include nonprofit corporations which are incorporated solely for the purpose of operating and maintaining and are engaged solely in operation and maintenance of dams, reservoirs, canals, lateral and drainage ditches, pumps or pumping plants.

(e) "Forest protective associations" shall mean associations whose purpose is the furnishing, operating and maintaining of a protective system for the detection, prevention and suppression of forest or range fires. Forest protective associations shall include only those associations with which the state of Idaho has contracted or become a member of pursuant to chapter 1, title 38, Idaho Code.

(f) "Food banks or soup kitchens" shall mean any nonprofit corporation or association, other than the Idaho Foodbank Warehouse, Inc., one of whose regular activities is the furnishing or providing of food or food products to others without charge.

(g) "Nonsale clothier" shall mean any nonprofit corporation or association one of whose primary purposes is the furnishing or providing of clothes to others without charge.

(h) "Clothes" shall mean garments in general, designed or intended to be worn by humans and shall include footwear in addition to wearing apparel.

(i) "Center for independent living" shall mean a private, nonprofit, nonresidential organization in which at least fifty-one percent (51%) of the principal governing board, management and staff are individuals with disabilities and that:

- (i) Is designed and operated within a local community by individuals with disabilities;
- (ii) Provides an array of independent living services and programs; and
- (iii) Is cross-disability.

(j) "Political subdivision" means:

- (i) A governmental organization which:
  - 1. Embraces a certain territory,
  - 2. Is organized for public advantage and not in the interest of private individuals or classes,
  - 3. Has been delegated functions of government, and
  - 4. Has the statutory power to levy taxes; or
- (ii) A public health district created by section 39-408, Idaho Code; or
- (iii) A soil conservation district as defined in section 22-2717, Idaho Code; or
- (iv) A drainage district created pursuant to chapter 29, title 42, Idaho Code; or
- (v) An irrigation district created pursuant to title 43, Idaho Code; or
- (vi) A state grazing board created by section 57-1204, Idaho Code; or
- (vii) A water measurement district created pursuant to section 42-705 or 42-706, Idaho Code; or
- (viii) A ground water management district created pursuant to chapter 51, title 42, Idaho Code.

(k) "Agency of the state of Idaho" shall mean an office or organization created by the constitution or statutes of this state and constituting a component part of the executive, judicial or legislative branch of the government of this state.

(l) "Volunteer fire department" means an entity exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code and which primarily provides fire protection, or fire prevention on a not-for-profit basis to surrounding residents.

(m) "Licensed emergency medical service agency (EMS)" means an emergency medical service licensed by the EMS bureau of the department of health and welfare and which is exempt from federal income taxation pursuant



to section 501(c)(3) of the Internal Revenue Code and which provides emergency medical services on a not-for-profit basis to surrounding residents.

(n) "Qualifying senior citizen center" means an entity exempt from income tax pursuant to section 501(c)(3) of the Internal Revenue Code and which is a community facility for the organization and provision of a broad spectrum of services, which shall include provision of health (including mental health), social, nutritional, and educational services and the provision of facilities for recreational activities for older individuals.

(3) The exemption granted by subsection (1)(f) of this section does not include any association or other organization whose members are political subdivisions or state agencies unless the organization is expressly created under the joint powers provision of sections 67-2328 through 67-2333, Idaho Code.

(4) The exemptions granted by subsection (1) of this section do not include the use of tangible personal property by a contractor used to improve real property of an exempt entity when such use is within the definition provided by section 63-3615(b), Idaho Code, whether the use tax liability is included in a contract total or stated separately in a contract.

(5) There is exempted from the taxes imposed in this chapter, the renting of a place to sleep to an individual by the Idaho Ronald McDonald House.

## **TITLE 67 STATE GOVERNMENT AND STATE AFFAIRS**

**[67-820] 67-818. FLAGS FLOWN AT HALF-STAFF -- DEATH IN LINE OF DUTY FOR POLICE, FIREFIGHTERS, PARAMEDICS OR EMTS.** The governor, upon timely notification and verification of the death of a federal, state or local law enforcement officer, firefighter, paramedic or emergency medical technician died in the line of duty, shall direct that the flag of the United States and the state flag be flown at half-staff, from the time of notification to the governor until the day following the memorial service, at the state capitol building and at other state and local government buildings. The flags shall be flown upon an existing flagstaff or flagstaffs or, at the option of the governor, a flagstaff or flagstaffs erected at an appropriate site, after consultation with organizations representing law enforcement officers, firefighters, paramedics or emergency medical technicians regarding the location and design of the flagstaff or flagstaffs. The flag flown over the capitol building in honor of the deceased shall be presented to the family.

### **67-3008. RELEASE OF CRIMINAL HISTORY RECORD INFORMATION.**

(1) All units of state, city and local governments, as well as any agency of the state created by the legislature which require by statute, rule, or local or county ordinance, fingerprinting of applicants or licensees, are authorized to submit fingerprints to the bureau for examination and further submission, if necessary, to the Federal Bureau of Investigation. The bureau shall be the state's sole source of fingerprint submissions for criminal justice and applicant or licensing purposes to the Federal Bureau of Investigation.

(2) The department shall provide copies of or communicate information from criminal history records to the following:

(a) Criminal justice agencies and the court;

(b) A person or public or private agency, upon written application on a form approved by the director and provided by the department, subject to the following restrictions:

(i) A request for criminal history records must be submitted in writing or as provided by rule. However, the department shall accept a request presented in person by the subject of the record; and

(ii) The request must identify a specific person by name and date of birth. Fingerprints of the person named may be required to establish positive identification; and

(iii) Responding to the request does not interfere with the secure and orderly conduct of the department and would not substantially prejudice or prevent the carrying out of the functions of the department; and

(iv) A record of an arrest that does not contain a disposition after twelve (12) months from the date of arrest may only be disseminated by the department to criminal justice agencies, to the subject of the record, or to a person requesting the criminal history information with a signed release from the subject of the record; and

(v) Any release of criminal history data by the department shall prominently display the statement: "AN ARREST WITHOUT DISPOSITION IS NOT AN INDICATION OF GUILT."

(3) Judicial review of the department's denial of a request for records shall be in accordance with the provisions of section 9-343, Idaho Code.

(4) A request for a criminal history record by a criminal justice agency or a court shall take precedence over all other requests. The department shall adopt rules to set forth the manner by which criminal justice agencies and courts without direct terminal access to the law enforcement telecommunications network established by section 19-5202, Idaho Code, may request Idaho criminal history record information.

(5) Unless otherwise provided by law, access authorized under this section to criminal history records does not create a duty upon a person, employer, private agency, or public agency to examine the criminal history record of an applicant, employee or volunteer.

(6) A person or private agency, or public agency, other than the department, shall not disseminate criminal history record information obtained from the department to a person or agency that is not a criminal justice agency or a court without a signed release of the subject of record or unless otherwise provided by law.

(7) Direct terminal access to criminal history record information is regulated by chapter 52, title 19, Idaho Code, and the rules adopted pursuant to that chapter.

**67-8801. IDAHO LAW ENFORCEMENT AND FIREFIGHTING MEDAL OF HONOR ESTABLISHED.** There is hereby established a decoration of the Idaho law enforcement and firefighting medal of honor with accompanying ribbons and appurtenances for award by the governor in the name of the state to any law enforcement officer or firefighter who has been killed or seriously injured in the performance of duty, or who has been distinguished by exceptionally meritorious conduct, upon nomination of the Idaho law enforcement and firefighting medal of honor commission.

**67-8802. IDAHO LAW ENFORCEMENT AND FIREFIGHTING MEDAL OF HONOR COMMISSION CREATED -- MEMBERSHIP -- ESTABLISHMENT OF QUALIFICATIONS FOR AWARD.**

(1) There is hereby created in the office of the governor the Idaho law enforcement and firefighting medal of honor commission, hereafter referred to as the commission, which shall nominate candidates for the award of the Idaho law enforcement and firefighting medal of honor. The commission shall consist of one (1) representative from each of the following: the office of the governor, the office of the attorney general, the Idaho prosecuting attorneys association, the Idaho chiefs of police association, the Idaho fire chiefs association, the Idaho sheriffs' association, the Idaho peace officers association and the peace officers standards and training council. Members of the commission shall be appointed by the governor and shall each serve for a term of four (4) years.

(2) The attorney general or his designee shall serve as chair of the commission and shall designate a secretary for the commission.

(3) The commission shall meet annually, or at the call of the chair, to consider candidates for nomination. Commission meetings may be conducted via teleconference.

(4) The commission shall adopt rules establishing the qualifications for the Idaho law enforcement and firefighting medal of honor and the protocol governing the decoration, and other rules necessary to carry out the purposes of this chapter.

**67-8803. WHEN AND BY WHOM AWARDED.** The Idaho law enforcement and firefighting medal of honor shall be awarded by the governor to the recipients during the national law enforcement recognition week. The governor may delegate the awarding of the medal to the lieutenant governor or the attorney general.

**67-8804. POSTHUMOUS AWARD.** The Idaho law enforcement and firefighting medal of honor may be awarded posthumously by presentation to a representative of the deceased as may be deemed appropriate by the governor or the designees specified in section 67-8803, Idaho Code.

**67-8805. DESIGN AND COST.** The decoration of the Idaho law enforcement and firefighting medal of honor shall be cast in bronze or other metal. The design of the medal shall incorporate the great seal of the state of Idaho with other insignia as deemed appropriate by the law enforcement and firefighting medal of honor commission. The reverse of the decoration shall be inscribed with the words: "For exceptionally honorable and meritorious conduct in performing services as a law enforcement officer or firefighter." The cost of the medal shall be paid by the agency whose officer or firefighter receives the medal. The family of a recipient may request a second medal and may receive such medal upon payment to the commission of the cost of the medal.